

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 328

Citations Affected: IC 10-13-3-27.5; IC 10-13-3-39; IC 12-19-1-2; IC 29-3-2-1; IC 31-9-1-2; IC 31-9-2; IC 31-17-5-10; IC 31-19; IC 31-21; IC 31-25-2-20.4; IC 31-27; IC 31-32-1-4; IC 31-33; IC 31-34; IC 31-37; IC 34-26-5-3; IC 12-7-2-82.3; IC 31-9-2-23; IC 31-9-2-32; IC 32-9-2-33; IC 31-9-2-34; IC 31-9-2-35; IC 31-9-2-59; IC 31-9-2-81; IC 31-9-2-128; IC 31-17-3; IC 31-33-8-14; IC 31-33-12; IC 31-33-13; IC 31-33-17; IC 31-33-19; IC 31-33-20; IC 31-34-8-4.

Synopsis: Department of child services and Uniform Child Custody Jurisdiction Act. Conference committee report for ESB 328. Requires the director of the department of child services (department) to appoint a county director for each county office of family and children. (Current law requires the director of the division of family resources to make the appointments in consultation with the director of the department.) Specifies that national criminal history checks shall be conducted in compliance with federal law to determine whether certain individuals who supervise children have been convicted of specified offenses. Requires criminal history checks in pre-adoption placements, even if the child is: (1) not a ward of the court or the department; or (2) placed with certain relatives. Adds domestic battery to the list of crimes requiring the denial of a foster family home license or the adoption of a child. Provides that the department shall establish at least three citizen review panels including that one panel must be: (1) a community child protection team; (2) a statewide or local child fatality review team; and (3) a foster care advisory panel. Requires a citizen review panel to: (1) consist of volunteer members who broadly represent the community; (2) examine policies and procedures of child welfare agencies and specific cases when appropriate; (3) meet at least one time every three months; and (4) prepare an annual report. Requires the department to submit a response to a citizen review panel's report not more than six months after the date the department receives the report. Prohibits a member of a citizen review panel from disclosing identifying information about a specific child services case, child or member of the child's family who is the subject of a child protective services investigation, or any other person identified in confidential materials. Provides that the department may remove a member who discloses identifying information from a citizen review panel. Requires child welfare agencies to cooperate and work with citizen review panels. Allows citizen review panels access to reports and other materials concerning child protective services. Provides that an initial hearing on a child in need of services (CHINS)

petition shall be held within seven business days after the detention hearing. Provides that if an initial hearing on a CHINS petition is not held within seven business days of the detention hearing, the child shall be released. Permits a court to waive certain home study requirements otherwise required for an adoption if one of the petitioners is a stepparent or grandparent of the child. Specifies that the court may not waive required criminal history checks. Establishes a child protection index, and permits a person or agency to obtain certain information contained in the index relating to an individual who has applied for employment or volunteered for services in a capacity that would place the individual in a position of trust with children. Specifies that national criminal history checks shall be conducted in compliance with federal law to determine whether certain individuals who supervise children have been convicted of specified offenses. Requires a court to consult with a CHINS regarding a proposed permanency plan for the child. Provides that if the child is at least 16 years of age and the proposed permanency plan for the child provides for the transition from foster care to independent living, the court shall notify the child of the permanency hearing and provide the child an opportunity to be heard. Provides that on July 1, 2007, certain reports and documents relating to child abuse or neglect cases contained in the child abuse registry or the automated child protection system to be transferred to the child protection index. Establishes a uniform process to enforce interstate child custody and visitation determinations, and harmonizes the law with respect to simultaneous proceedings and inconvenient forums. Repeals provisions: (1) requiring the department to offer certain services to a family or a child following an investigation of a report of child abuse or neglect; (2) authorizing voluntary services referral agreements between the department and persons accused of child abuse or neglect; and (3) concerning the Uniform Child Custody Jurisdiction Law. Provides that the right of notice and the opportunity to be heard applies to all court proceedings in CHINS and delinquency cases. Makes conforming amendments. **(This conference committee report: (1) removes a definition of "custodian"; (2) specifies the information the department of child services must enter into the child protection index when a court finds that a child is a CHINS on the basis of a child abuse or neglect claim; (3) makes technical corrections; (4) provides that an initial hearing on a CHINS petition shall be held within seven business days after the detention hearing; (5) provides that if an initial hearing on a CHINS petition is not held within seven business days of the detention hearing, the child shall be released; (6) permits a court to waive certain home study requirements otherwise required for an adoption if one of the petitioners is a stepparent or grandparent of the child; (7) specifies that a court may not waive required criminal history checks; (8) repeals the Uniform Child Custody Jurisdiction Law and replaces it with the Uniform Child Custody Jurisdiction Act; (9) establishes a uniform process to enforce interstate child custody and visitation determinations, and harmonizes the law with respect to simultaneous proceedings and inconvenient forums; (10) requires that on July 1, 2007, certain reports and documents relating to child abuse or neglect cases contained in the child abuse registry or the automated child protection system be transferred to the child protection index; and (11) repeals other statutes concerning the Uniform Child Custody Jurisdiction Law.)**

Effective: Upon passage; July 1, 2007.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 328 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 10-13-3-27.5, AS AMENDED BY P.L.146-2006,
- 3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2007]: Sec. 27.5. (a) If:
- 5 (1) exigent circumstances require the emergency placement of a
- 6 child; and
- 7 (2) the department will be unable to obtain criminal history
- 8 information from the Interstate Identification Index before the
- 9 emergency placement is scheduled to occur;
- 10 upon request of the department of child services established by
- 11 IC 31-25-1-1, a caseworker, or a juvenile probation officer, the
- 12 department may conduct a national name based criminal history record
- 13 check of each individual **who is at least eighteen (18) years of age**
- 14 **and** who is currently residing in the location designated as the
- 15 out-of-home placement at the time the child will reside in the location.
- 16 The department shall promptly transmit a copy of the report it receives
- 17 from the Interstate Identification Index to the agency or person that
- 18 submitted a request under this section.
- 19 (b) Not later than seventy-two (72) hours after the department of
- 20 child services, the caseworker, or the juvenile probation officer
- 21 receives the results of the national name based criminal history record
- 22 check, the department of child services, the caseworker, or the juvenile

probation officer shall provide the department with a complete set of fingerprints for each individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will be placed in the location. The department shall:

(1) use fingerprint identification to positively identify each individual ~~who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location;~~ **whose fingerprints are provided to the department under this subsection;** or

(2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) calendar days after the date on which the national name based criminal history record check was conducted.

The child shall be removed from the location designated as the out-of-home placement if an individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location fails to provide a complete set of fingerprints to the department of child services, the caseworker, or the juvenile probation officer.

(c) The department and the person or agency that provided fingerprints shall comply with all requirements of 42 U.S.C. 5119a and any other applicable federal law or regulation regarding:

(1) notification to the subject of the check; and

(2) the use of the results obtained based on the check of the person's fingerprints.

(d) If an out-of-home placement is denied as the result of a national name based criminal history record check, an individual ~~who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location~~ **the subject of the name based criminal history record check** may contest the denial by submitting to the department of child services, the caseworker, or the juvenile probation officer:

(1) a complete set of the individual's fingerprints; and

(2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to forward the fingerprints to the department for submission to the Federal Bureau of Investigation;

not later than five (5) days after the out-of-home placement is denied.

(e) The:

(1) department; and

(2) Federal Bureau of Investigation;

may charge a reasonable fee for processing a national name based criminal history record check. The department shall adopt rules under IC 4-22-2 to establish a reasonable fee for processing a national name based criminal history record check and for collecting fees owed under this subsection.

(f) The:

(1) department of child services, for an out-of-home placement arranged by a caseworker or the department of child services; or

(2) juvenile court, for an out-of-home placement ordered by the

juvenile court;
shall pay the fee described in subsection (e), arrange for fingerprinting,
and pay the costs of fingerprinting, if any.

SECTION 2. IC 10-13-3-39, AS AMENDED BY P.L.234-2005,
SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2007]: Sec. 39. (a) The department is designated as the
authorized agency to receive requests for, process, and disseminate the
results of national criminal history background checks that comply with
this section and 42 U.S.C. 5119a.

(b) A qualified entity may contact the department to request a
national criminal history background check on any of the following
persons:

(1) A person who seeks to be or is employed with the qualified
entity. A request under this subdivision must be made not later
than three (3) months after the person is initially employed by the
qualified entity.

(2) A person who seeks to volunteer or is a volunteer with the
qualified entity. A request under this subdivision must be made
not later than three (3) months after the person initially volunteers
with the qualified entity.

**(3) A person for whom a national criminal history
background check is required under any law relating to the
licensing of a home, center, or other facility for purposes of
day care or residential care of children.**

**(4) A person for whom a national criminal history
background check is required for purposes of placement of a
child in a foster family home, a prospective adoptive home, or
the home of a relative or other caretaker, or for purposes of
a report concerning an adoption as required by IC 31-19-8.**

(c) A qualified entity must submit a request under subsection (b) in
the form required by the department and provide a set of the person's
fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with
subsection (b), the department shall submit the set of fingerprints
provided with the request to the Federal Bureau of Investigation for a
national criminal history background check. ~~for convictions described
in IC 20-26-5-11.~~ The department shall respond to the request in
conformity with:

(1) the requirements of 42 U.S.C. 5119a; and

(2) the regulations prescribed by the Attorney General of the
United States under 42 U.S.C. 5119a.

(e) This subsection applies to a qualified entity that ~~(1)~~ is not a
school corporation or a special education cooperative, or ~~that (2)~~ is a
school corporation or a special education cooperative and seeks a
national criminal history background check for a volunteer. After
receiving the results of a national criminal history background check
from the Federal Bureau of Investigation, the department shall make a
determination whether the ~~applicant~~ **person who is the subject of a
request** has been convicted of:

(1) an offense described in IC 20-26-5-11;

(2) in the case of a foster family home, an offense described in

1 **IC 31-27-4-13(a);**

2 **(3) in the case of a prospective adoptive home, an offense**
 3 **described in IC 31-19-11-1(c);**

4 **(4) any other felony; or**

5 **(5) any misdemeanor;**

6 and convey the determination to the requesting qualified entity.

7 (f) This subsection applies to a qualified entity that:

8 (1) is a school corporation or a special education cooperative; and

9 (2) seeks a national criminal history background check to
 10 determine whether to employ or continue the employment of a
 11 certificated employee or a noncertificated employee of a school
 12 corporation or an equivalent position with a special education
 13 cooperative.

14 After receiving the results of a national criminal history background
 15 check from the Federal Bureau of Investigation, the department may
 16 exchange identification records concerning convictions for offenses
 17 described in IC 20-26-5-11 with the school corporation or special
 18 education cooperative solely for purposes of making an employment
 19 determination. The exchange may be made only for the official use of
 20 the officials with authority to make the employment determination. The
 21 exchange is subject to the restrictions on dissemination imposed under
 22 P.L.92-544, (86 Stat. 1115) (1972).

23 (g) This subsection applies to a qualified entity (as defined in
 24 IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After
 25 receiving the results of a national criminal history background check
 26 from the Federal Bureau of Investigation, the department shall provide
 27 a copy to the public agency. Except as permitted by federal law, the
 28 public agency may not share the information contained in the national
 29 criminal history background check with a private agency.

30 SECTION 3. IC 12-19-1-2, AS AMENDED BY P.L.234-2005,
 31 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 2. (a) The ~~director of the division; in~~
 33 ~~consultation with the~~ director of the department of child services shall
 34 appoint a county director in each county.

35 (b) The director **of the department of child services** shall appoint
 36 each county director:

37 (1) solely on the basis of merit; and

38 (2) from eligible lists established by the state personnel
 39 department.

40 (c) Each county director must be a citizen of the United States.

41 SECTION 4. IC 29-3-2-1 IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This article applies to the
 43 following:

44 (1) The business affairs, physical person, and property of every
 45 incapacitated person and minor residing in Indiana.

46 (2) Property located in Indiana of every incapacitated person and
 47 minor residing outside Indiana.

48 (3) Property of every incapacitated person or minor, regardless of
 49 where the property is located, coming into the control of a
 50 fiduciary who is subject to the laws of Indiana.

51 (b) Except as provided in subsections (c) through (e), the court has

exclusive original jurisdiction over all matters concerning the following:

(1) Guardians.

(2) Protective proceedings under IC 29-3-4.

(c) A juvenile court has exclusive original jurisdiction over matters relating to the following:

(1) Minors described in IC 31-30-1-1.

(2) Matters related to guardians of the person and guardianships of the person described in IC 31-30-1-1(10).

(d) Except as provided in subsection (c), courts with child custody jurisdiction under:

(1) IC 31-14-10;

(2) IC 31-17-2-1; or

(3) **IC 31-21-5 (or IC 31-17-3-3 before its repeal);**

have original and continuing jurisdiction over custody matters relating to minors.

(e) A mental health division of a superior court under IC 33-33-49 has jurisdiction concurrent with the court in mental health proceedings under IC 12-26 relating to guardianship and protective orders.

(f) Jurisdiction under this section is not dependent on issuance or service of summons.

SECTION 5. IC 31-9-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Except as otherwise provided, the definitions in this article do not apply to the following:

(1) IC 31-11-3.

(2) **IC 31-21 (or IC 31-17-3 before its repeal).**

(3) IC 31-18.

(4) IC 31-19-29.

(5) IC 31-37-23.

SECTION 6. IC 31-9-2-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.3. "Abandoned", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-2.**

SECTION 7. IC 31-9-2-13, AS AMENDED BY HEA 1339-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

(1) Children born out of wedlock to the parties.

(2) Children born or adopted during the marriage of the parties.

(b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

(c) "Child", for purposes of IC 31-19-5, includes an unborn child.

(d) "Child", for purposes of the juvenile law, means:

(1) a person who is less than eighteen (18) years of age;

(2) a person:

(A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and

(B) who either:

(i) is charged with a delinquent act committed before the

- 1 person's eighteenth birthday; or
 2 (ii) has been adjudicated a child in need of services before
 3 the person's eighteenth birthday; or
 4 (3) a person:
 5 (A) who is alleged to have committed an act that would have
 6 been murder if committed by an adult;
 7 (B) who was less than eighteen (18) years of age at the time of
 8 the alleged act; and
 9 (C) who is less than twenty-one (21) years of age.
 10 (e) "Child", for purposes of the Interstate Compact on Juveniles
 11 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.
 12 (f) "Child", for purposes of IC 31-16-12.5, means an individual to
 13 whom child support is owed under:
 14 (1) a child support order issued under IC 31-14-10 or IC 31-16-6;
 15 or
 16 (2) any other child support order that is enforceable under
 17 IC 31-16-12.5.
 18 (g) "Child", for purposes of IC 31-27 and IC 31-32-5, means an
 19 individual who is less than eighteen (18) years of age.
 20 **(h) "Child", for purposes of the Uniform Child Custody**
 21 **Jurisdiction Act under IC 31-21, has the meaning set forth in**
 22 **IC 31-21-2-3.**
 23 SECTION 8. IC 31-9-2-16.5 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16.5. "Child care
 25 provider", for purposes of ~~IC 31-33-17~~, **IC 31-33-26**, has the meaning
 26 set forth in ~~IC 31-33-17-0.5~~. **IC 31-33-26-1.**
 27 SECTION 9. IC 31-9-2-16.8 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2007]: **Sec. 16.8. "Child custody determination", for purposes of**
 30 **the Uniform Child Custody Jurisdiction Act under IC 31-21, has**
 31 **the meaning set forth in IC 31-21-2-4.**
 32 SECTION 10. IC 31-9-2-16.9 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2007]: **Sec. 16.9. "Child custody proceeding",**
 35 **for purposes of the Uniform Child Custody Jurisdiction Act under**
 36 **IC 31-21, has the meaning set forth in IC 31-21-2-5.**
 37 SECTION 11. IC 31-9-2-19.3 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2007]: **Sec. 19.3. "Child welfare agency", for**
 40 **purposes of IC 31-25-2-20.4, means:**
 41 **(1) the department of child services; and**
 42 **(2) a person (as defined in IC 24-4-14-5) that, directly or**
 43 **indirectly, provides:**
 44 **(A) services to a child or family of a child, for which**
 45 **payment is made, in whole or in part, by the department of**
 46 **child services or a local office of the department of child**
 47 **services;**
 48 **(B) services to:**
 49 **(i) a child who is; or**
 50 **(ii) a family with;**
 51 **a child at imminent risk of placement (as defined in**

IC 31-26-5-1) who is referred by the department of child services or a local office of the department of child services to the person for family support or family preservation services; or

(C) assistance to or works in cooperation with the department of child services in the investigations of allegations of possible child abuse or neglect in accordance with IC 31-33.

SECTION 12. IC 31-9-2-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20.5. "Commencement", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-6.**

SECTION 13. IC 31-9-2-22.5, AS AMENDED BY P.L.145-2006, SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 22.5. "Conduct a criminal history check", for purposes of IC 31-19, IC 31-26, IC 31-27, IC 31-33, IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:**

(1) request the state police department to:

(A) release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and juvenile history data (as defined in IC 10-13-4-4) concerning a person who is **at least fourteen (14) years of age and who is:**

(i) for purposes of IC 31-19, IC 31-26, IC 31-33, IC 31-34, **and IC 31-37, and IC 31-38-2-13.5**, currently residing in a location designated by the department of child services or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location; or

(ii) for purposes of ~~IC 31-27~~, an applicant; or if the applicant is an organization, the director or a manager of a facility where children will be placed; an employee; or a volunteer who has or will have direct contact, on a regular and continuing basis, with children who are under the direct supervision of a person required to be licensed under ~~IC 31-27~~; and

(ii) for purposes of **IC 31-27-4-5, a resident of the applicant's household who is at least fourteen (14) years of age; and**

(B) conduct a:

(i) ~~national~~ fingerprint based criminal history background check **of both national and state records data bases concerning a person who is at least eighteen (18) years of age** in accordance with **IC 10-13-3-27 and IC 10-13-3-39;** or

(ii) national name based criminal history record check (as defined in IC 10-13-3-12.5) of a person **who is at least eighteen (18) years of age as** described in clause (A) as provided by IC 10-13-3-27.5; ~~and~~

(2) collect each substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe that a

person described in subdivision (1)(A), or a person for whom a fingerprint based criminal history background check is required under IC 31, resided within the previous five (5) years; and

(3) request information concerning any substantiated report of child abuse or neglect relating to a person described in subdivision (1)(A) that is contained in a national registry of substantiated cases of child abuse or neglect that is established and maintained by the United States Department of Health and Human Services, to the extent that the information is accessible under 42 U.S.C. 16990 and any applicable regulations or policies of the Department of Health and Human Services.

SECTION 14. IC 31-9-2-26, AS AMENDED BY P.L.145-2006, SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. "County office" or "county office of family and children" for purposes of IC 31-25 through IC 31-40 and the juvenile law, refers to a county office of family and children; the department of child services established by IC 31-25-1-1.

SECTION 15. IC 31-9-2-27, AS AMENDED BY P.L.145-2006, SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) "Court", for purposes of IC 31-15, IC 31-16, and IC 31-17, means the circuit, superior, or other courts of Indiana upon which jurisdiction to enter dissolution decrees has been or may be conferred.

(b) "Court", for purposes of IC 31-16-15, refers to the court having jurisdiction over child support orders.

(c) "Court", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-3.

(d) "Court", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(e) "Court", for purposes of IC 31-27, means a circuit or superior court.

(f) "Court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-7.

SECTION 16. IC 31-9-2-38.5, AS AMENDED BY P.L.145-2006, SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 38.5. "Department", for purposes of IC 31-19 IC 31-25, IC 31-26, IC 31-27, IC 31-28, IC 31-33, IC 31-34, IC 31-38, and IC 31-25 through IC 31-40, has the meaning set forth in IC 31-25-2-1.

SECTION 17. IC 31-9-2-44.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 44.8. "Family preservation services", for purposes of IC 31-34-24 and IC 31-37-24, means short term, highly intensive services designed to protect, treat, and support the following:

(1) A family with a child at risk of placement by enabling the family to remain intact and care for the child at home.

(2) A family that adopts or plans to adopt an abused or neglected child who is at risk of placement or adoption disruption by assisting the family to achieve or maintain a stable, successful adoption of the child.

SECTION 18. IC 31-9-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 53. (a) "Home state", for purposes of the Uniform Child Custody Jurisdiction Law Act under ~~IC 31-17-3~~, IC 31-21, has the meaning set forth in ~~IC 31-17-3-2~~. IC 31-21-2-8.

(b) "Home state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-5.

SECTION 19. IC 31-9-2-58.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 58.3. "Index", for purposes of IC 31-33-26, means the child protection index established under IC 31-33-26-2.

SECTION 20. IC 31-9-2-59.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 59.5. "Initial determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-9.

SECTION 21. IC 31-9-2-64.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 64.5. "Issuing court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-10.

SECTION 22. IC 31-9-2-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 65. (a) "Issuing state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-11.

(b) "Issuing state", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-11.

SECTION 23. IC 31-9-2-80.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 80.8. "Modification", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-12.

SECTION 24. IC 31-9-2-89, AS AMENDED BY P.L.145-2006, SECTION 204, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 89. (a) "Person", for purposes of the juvenile law, means:

- (1) a human being;
- (2) a corporation;
- (3) a limited liability company;
- (4) a partnership;
- (5) an unincorporated association; or
- (6) a governmental entity.

(b) "Person", for purposes of section 44.5 of this chapter, means an adult or a minor.

(c) "Person", for purposes of IC 31-27, means an individual who is

at least twenty-one (21) years of age, a corporation, a partnership, a voluntary association, or other entity.

(d) "Person", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-13.

SECTION 25. IC 31-9-2-90 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 90. "Person acting as a parent", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-14.**

SECTION 26. IC 31-9-2-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 91. **(a)** "Petitioner" or "obligee", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-14.

(b) "Petitioner", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-15.

SECTION 27. IC 31-9-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 92. "Physical custody", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-16.**

SECTION 28. IC 31-9-2-102.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 102.7. "Record", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-17.**

SECTION 29. IC 31-9-2-106, AS AMENDED BY P.L.145-2006, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 106. ~~(a)~~ "Registry", for purposes of IC 31-19-5, refers to the putative father registry established by IC 31-19-5-2.

~~(b) "Registry", for purposes of IC 31-33, refers to the child abuse registry established by the department under IC 31-33-17.~~

SECTION 30. IC 31-9-2-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 110. **(a)** "Respondent" or "obligor", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-15.

(b) "Respondent", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-18.

SECTION 31. IC 31-9-2-119 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 119. (a) "State", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-19.**

(b) "State", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-21.

(c) "State", for purposes of the Interstate Compact on Adoption Assistance under IC 31-19-29, has the meaning set forth in IC 31-19-29-2.

(d) "State", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

SECTION 32. IC 31-9-2-130.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 130.5. "Tribe", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-20.**

SECTION 33. IC 31-9-2-135, AS ADDED BY P.L.145-2006, SECTION 218, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 135. (a) "Warrant", for purposes of IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3, means an instrument that is:

- (1) the equivalent of a money payment; and
- (2) immediately convertible into cash by the payee for the full face amount of the instrument.

(b) **"Warrant", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-21.**

SECTION 34. IC 31-17-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Jurisdiction of a child custody proceeding under:

- (1) this chapter, IC 31-17-4, IC 31-17-6, and IC 31-17-7; or
- (2) **IC 31-21 (or IC 31-17-3 before its repeal);**

shall be determined under **IC 31-21 (or IC 31-17-3 before its repeal).**

SECTION 35. IC 31-17-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. If the marriage of the child's parents has been dissolved in another state, the child's maternal or paternal grandparent may seek visitation rights if:

- (1) the custody decree entered in the action for dissolution of marriage does not bind the grandparent under **IC 31-21-3-1 (or IC 31-17-3-12 before its repeal);** and
- (2) an Indiana court would have jurisdiction under **IC 31-21-5-1 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3 (or IC 31-17-3-14 before its repeal)** to grant visitation rights to the grandparent in a modification decree.

SECTION 36. IC 31-19-2-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7.3. A court may not waive any criminal history check requirements set forth in this chapter.**

SECTION 37. IC 31-19-7-1, AS AMENDED BY P.L.145-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) ~~Except:~~

(+) for:

- (A) a child sought to be adopted by a stepparent;
- (B) a child sought to be adopted by a grandparent, an aunt, or an uncle; or
- (C) a child received by the petitioner for adoption from an agency outside Indiana with the written consent of the department; or
- (2) if the court in its discretion, after a hearing held upon proper notice, has waived the requirement for prior written approval;

A child may not be placed in a proposed adoptive home without the prior written approval of a licensed child placing agency or county office of family and children approved for that purpose by the department.

(b) Except as provided in subsection (d), before giving prior written approval for placement in a proposed adoptive home of a child, ~~who is under the care and supervision of:~~

~~(1) the juvenile court; or~~

~~(2) the department of child services;~~

a licensed child placing agency or the department of child services shall conduct a criminal history check (as defined in IC 31-9-2-22.5) concerning the proposed adoptive parent and any other person who is currently residing in the proposed adoptive home.

(c) The prospective adoptive parent shall pay the fees and other costs of the criminal history check required under this section.

(d) A licensed child placing agency or the department of child services is not required to conduct a criminal history check (as defined in IC 31-9-2-22.5) if a prospective adoptive parent provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the licensed child placing agency or county office of family and children provides written approval for the placement.

SECTION 38. IC 31-19-8-1, AS AMENDED BY P.L.145-2006, SECTION 248, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. An adoption may be granted in Indiana only after:

(1) the court has heard the evidence; and

(2) **except as provided in section 2(c) of this chapter**, a period of supervision, as described in section 2 of this chapter, by a licensed child placing agency or **the** county office of family and children approved for that purpose by the department.

SECTION 39. IC 31-19-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) **Except as provided in subsection (c)**, the period of supervision required by section 1 of this chapter may be before or after the filing of a petition for adoption, or both.

(b) The length of the period of supervision is within the sole discretion of the court hearing the petition for adoption.

(c) A court hearing a petition for adoption of a child may waive the period of supervision under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the report under section 5(c) of this chapter.

SECTION 40. IC 31-19-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) **Except as provided in subsection (c)**, not more than sixty (60) days from the date of reference of a petition for adoption to each appropriate agency, each agency **or the county office of family and children** shall submit to the court a written report of ~~and the agency's~~ investigation **and** recommendation as to the advisability of the adoption.

(b) The agency's **or county office of family and children's** report and recommendation:

- (1) shall be filed with the adoption proceedings; and
- (2) become a part of the proceedings.

(c) A court hearing a petition for adoption of a child:

- (1) may waive the report required under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the period of supervision under section 2(c) of this chapter; and**
- (2) may require the county office of family and children or a child placing agency to:**

- (A) investigate any matter related to an adoption; and**
- (B) report to the court the results of the investigation.**

(d) If the court waives the reports required under subsection (a), the court shall require the county office of family and children or a child placing agency to:

- (1) conduct a criminal history check under IC 31-19-2-7.5; and**
- (2) report to the court the results of the criminal history check.**

SECTION 41. IC 31-19-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The agency's **or county office of family and children's** report must, to the extent possible, include the following:

- (1) The former environment and antecedents of the child.
- (2) The fitness of the child for adoption.
- (3) Whether the child is classified as hard to place:
 - (A) because of the child's ethnic background, race, color, language, physical, mental, or medical disability, or age; or
 - (B) because the child is a member of a sibling group that should be placed in the same home.
- (4) The suitability of the proposed home for the child.

(b) The report may not contain any of the following:

- (1) Information concerning the financial condition of the parents.
- (2) A recommendation that a request for a subsidy be denied in whole or in part due to the financial condition of the parents.

(c) The criminal history information required under IC 31-19-2-7.5 must accompany the report.

SECTION 42. IC 31-19-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The court shall summarily consider the agency's **or county office of family and children's** report. If the court finds that further investigation or further supervision is necessary, the court shall continue the case to a later date that the court considers advisable for final determination. At that time the court shall determine the case.

SECTION 43. IC 31-19-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The report and recommendation of the agency **or county office of family and children** are not binding on the court but are advisory only.

SECTION 44. IC 31-19-11-1, AS AMENDED BY P.L.140-2006, SECTION 17, AS AMENDED BY P.L.173-2006, SECTION 17, AND

AS AMENDED BY P.L.145-2006, SECTION 253, IS CORRECTED
AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
2007]: Sec. 1. (a) Whenever the court has heard the evidence and finds
that:

- (1) the adoption requested is in the best interest of the child;
- (2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;
- (3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;
- (4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;
- (5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;
- (6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:
 - (A) IC 31-19-6 indicating whether a record of a paternity determination; or
 - (B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;
- has been filed in relation to the child;
- (7) proper consent, if consent is necessary, to the adoption has been given;
- (8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and
- (9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the ~~department's state~~ *department of health's* affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery as a felony (IC 35-42-2-1).
- (7) Domestic battery (IC 35-42-2-1.3).**
- ~~(7)~~ **(8) Aggravated battery (IC 35-42-2-1.5).**

- ~~(8)~~ **(9)** Kidnapping (IC 35-42-3-2).
~~(9)~~ **(10)** Criminal confinement (IC 35-42-3-3).
~~(10)~~ **(11)** A felony sex offense under IC 35-42-4.
~~(11)~~ **(12)** Carjacking (IC 35-42-5-2).
~~(12)~~ **(13)** Arson (IC 35-43-1-1).
~~(13)~~ **(14)** Incest (IC 35-46-1-3).
~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).
~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or IC 35-47.5.
~~(17)~~ **(18)** A felony relating to controlled substances under IC 35-48-4.
~~(18)~~ **(19)** An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
~~(19)~~ **(20)** A felony that is substantially equivalent to a felony listed in subdivisions (1) through ~~(18)~~ **(19)** for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), ~~(11)~~, **(12)**, **(13)**, ~~(16)~~, ~~or~~ **(17)**, or **(18)**, or its equivalent under subdivision ~~(19)~~, **(20)**, if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~an~~ a sex offender (as defined in ~~IC 35-2-12-4~~, IC 11-8-8-5).

SECTION 45. IC 31-21 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

ARTICLE 21. UNIFORM CHILD CUSTODY JURISDICTION ACT

Chapter 1. Applicability

Sec. 1. This article does not apply to:

- (1) an adoption proceeding; or**
- (2) a proceeding pertaining to the authorization of emergency medical care for a child.**

Sec. 2. (a) A child custody proceeding pertaining to an Indian child, as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), is not subject to this article to the extent that it is governed by the Indian Child Welfare Act.

(b) An Indiana court shall treat a tribe as if the tribe were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.

(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this article must be recognized and enforced under IC 31-21-6.

Sec. 3. (a) An Indiana court shall treat a foreign country as if the foreign country were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.

(b) Except as otherwise provided in subsection (c), a child custody determination made in a foreign country under factual

circumstances in substantial conformity with the jurisdictional standard of this article must be recognized and enforced under IC 31-21-6.

(c) An Indiana court need not apply this article if the child custody law of a foreign country violates the fundamental principles of human rights.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Abandoned" means left without provision for reasonable and necessary care or supervision.

Sec. 3. "Child" means a person who is less than eighteen (18) years of age.

Sec. 4. (a) "Child custody determination" means a judgment, decree, or other court order providing for:

- (1) legal custody;
- (2) physical custody; or
- (3) visitation;

with respect to a child.

(b) The term does not include an order relating to child support or other monetary obligation of a person.

Sec. 5. (a) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for:

- (1) dissolution of marriage or legal separation;
- (2) child abuse or neglect;
- (3) guardianship;
- (4) paternity;
- (5) termination of parental rights; and
- (6) protection from domestic violence;

in which the issue of child custody or visitation may appear.

(b) The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement of child custody under IC 31-21-6.

Sec. 6. "Commencement" means the filing of the first pleading in a proceeding.

Sec. 7. "Court" means an entity authorized by state law to establish, enforce, or modify a child custody determination.

Sec. 8. "Home state" means the state in which a child lived with:

- (1) a parent; or
- (2) a person acting as a parent;

for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived since birth with a parent or person acting as a parent. A period of temporary absence of the parent or person acting as a parent is part of the period.

Sec. 9. "Initial determination" means the first child custody determination concerning a child.

Sec. 10. "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this

1 article.

2 Sec. 11. "Issuing state" means the state in which a child custody
3 determination is made.

4 Sec. 12. "Modification" means a child custody determination
5 that changes, replaces, supersedes, or is otherwise made after a
6 previous determination concerning the same child, regardless of
7 whether the determination is made by the court that made the
8 previous determination.

9 Sec. 13. "Person" means an individual, a corporation, a business
10 trust, an estate, a trust, a partnership, a limited liability company,
11 an association, a joint venture, a government, a governmental
12 subdivision, an agency or instrumentality, a public corporation, or
13 any other legal or commercial entity.

14 Sec. 14. "Person acting as a parent" means a person, other than
15 a parent, who:

16 (1) has physical custody of the child or has had physical
17 custody for a period of at least six (6) consecutive months,
18 including a temporary absence, within one (1) year
19 immediately before the commencement of a child custody
20 proceeding; and

21 (2) has been awarded legal custody by a court or claims a
22 right to legal custody under Indiana law.

23 Sec. 15. "Petitioner" means a person who seeks enforcement of:

24 (1) an order for return of a child under the Hague Convention
25 on the Civil Aspects of International Child Abduction; or

26 (2) a child custody determination.

27 Sec. 16. "Physical custody" means the physical care and
28 supervision of a child.

29 Sec. 17. "Record" means information that is:

30 (1) inscribed on a tangible medium; or

31 (2) stored in an electronic or other medium;

32 and that is retrievable in a perceivable form.

33 Sec. 18. "Respondent" means a person against whom a
34 proceeding has been commenced for enforcement of:

35 (1) an order for return of a child under the Hague Convention
36 on the Civil Aspects of International Child Abduction; or

37 (2) a child custody determination.

38 Sec. 19. "State" means a state of the United States, the District
39 of Columbia, Puerto Rico, the United States Virgin Islands, or a
40 territory or an insular possession subject to the jurisdiction of the
41 United States.

42 Sec. 20. "Tribe" means an Indian tribe or band or Alaskan
43 Native village that is:

44 (1) recognized by federal law; or

45 (2) formally acknowledged by a state.

46 Sec. 21. "Warrant" means an order issued by a court
47 authorizing law enforcement officers to take physical custody of a
48 child.

49 Chapter 3. Procedural Considerations

50 Sec. 1. A child custody determination made by an Indiana court
51 that has jurisdiction under this article binds each person who has:

- (1) been served with notice in accordance with Indiana law;
- (2) been notified in accordance with section 3 of this chapter;
- or
- (3) submitted to the jurisdiction of the court;

and who has been given an opportunity to be heard. A child custody determination described in this section is conclusive as to the decided issues of law and fact except to the extent the determination is modified.

Sec. 2. If a question of existence or exercise of jurisdiction under this article is raised in a child custody proceeding, the question, on a request of a party, must be given priority on the court's calendar and handled expeditiously.

Sec. 3. (a) Notice required for the exercise of jurisdiction when a person is outside Indiana may be given in a manner prescribed by:

- (1) Indiana law for service of process; or
- (2) the law of the state in which the service is made.

Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by:

- (1) Indiana law; or
- (2) the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Sec. 4. A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in Indiana for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

Sec. 5. A person who is subject to personal jurisdiction in Indiana on a basis other than physical presence is not immune from service of process in Indiana. A person present in Indiana who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

Sec. 6. The immunity granted by section 4 of this chapter does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this article committed by an individual while present in Indiana.

Chapter 4. Communication and Cooperation Between Courts

Sec. 1. An Indiana court may communicate with a court in another state concerning a proceeding arising under this article.

Sec. 2. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

Sec. 3. Communication between courts regarding:

- (1) schedules;

- (2) calendars;
- (3) court records; and
- (4) similar matters;

may occur without informing the parties. A record need not be made of the communication.

Sec. 4. A record must be made of a communication under sections 1 and 2 of this chapter. The parties must be:

- (1) promptly informed of the communication; and
- (2) granted access to the record.

Sec. 5. In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in Indiana for testimony taken in another state. The court on its own motion may:

- (1) order that the testimony of a person be taken in another state; and
- (2) prescribe the manner in which and the terms on which the testimony is taken.

Sec. 6. An Indiana court may permit a person residing in another state to be deposed or to testify by:

- (1) telephone;
- (2) audiovisual means; or
- (3) other electronic means;

before a designated court or another location in that state. An Indiana court shall cooperate with courts in other states in designating an appropriate location for the deposition or testimony.

Sec. 7. Documentary evidence transmitted from another state to an Indiana court by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Sec. 8. An Indiana court may request the appropriate court of another state to do the following:

- (1) Hold an evidentiary hearing.
- (2) Order a person to produce or give evidence under the procedures of the other state.
- (3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.
- (4) Forward to the Indiana court:
 - (A) a certified copy of the transcript of the record of the hearing;
 - (B) the evidence otherwise presented; and
 - (C) an evaluation prepared in compliance with the request.
- (5) Order:
 - (A) a party to a child custody proceeding; or
 - (B) any person having physical custody of the child;
 to appear in the proceeding with or without the child.

Sec. 9. On the request of a court of another state, an Indiana court may:

- (1) hold a hearing; and

(2) enter an order described in section 8 of this chapter.

Sec. 10. Travel and other necessary and reasonable expenses incurred under sections 8 and 9 of this chapter may be assessed against the parties according to Indiana law.

Sec. 11. An Indiana court shall preserve the:

- (1) pleadings;
- (2) orders;
- (3) decrees;
- (4) records of hearings;
- (5) evaluations; and
- (6) other pertinent records;

with respect to a child custody proceeding until the child becomes eighteen (18) years of age. On appropriate request by a court or law enforcement official of another state, the Indiana court shall forward a certified copy of the records to the court of the other state.

Chapter 5. Jurisdiction

Sec. 1. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court has jurisdiction to make an initial child custody determination only if one (1) of the following applies:

(1) Indiana is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six (6) months before the commencement of the proceeding, and the child is absent from Indiana but a parent or person acting as a parent continues to live in Indiana.

(2) A court of another state does not have jurisdiction under subdivision (1) or a court of the home state of the child has declined to exercise jurisdiction on the ground that Indiana is the more appropriate forum under section 8 or 9 of this chapter, and:

(A) the child and the child's parents, or the child and at least one (1) parent or person acting as a parent, have a significant connection with Indiana other than mere physical presence; and

(B) substantial evidence is available in Indiana concerning the child's care, protection, training, and personal relationships.

(3) All courts having jurisdiction under subdivision (1) or (2) have declined to exercise jurisdiction on the ground that an Indiana court is the more appropriate forum to determine the custody of the child under section 8 or 9 of this chapter.

(4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3).

(b) The jurisdictional requirements described in this section provide the exclusive jurisdictional basis for making a child custody determination by an Indiana court.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

Sec. 2. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court that has made a child custody

determination consistent with section 1 or 3 of this chapter has exclusive, continuing jurisdiction over the determination until:

(1) an Indiana court determines that:

(A) neither:

(i) the child;

(ii) the child's parents; nor

(iii) any person acting as a parent;

has a significant connection with Indiana; and

(B) substantial evidence is no longer available in Indiana concerning the child's care, protection, training, and personal relationships; or

(2) an Indiana court or a court of another state determines that:

(A) the child;

(B) the child's parents; and

(C) any person acting as a parent;

do not presently reside in Indiana.

(b) An Indiana court that:

(1) has made a child custody determination; and

(2) does not have exclusive, continuing jurisdiction under this section;

may modify the determination only if the Indiana court has jurisdiction to make an initial determination under section 1 of this chapter.

Sec. 3. Except as provided in section 4 of this chapter, an Indiana court may not modify a child custody determination made by a court of another state unless an Indiana court has jurisdiction to make an initial determination under section 1(a)(1) or 1(a)(2) of this chapter and:

(1) the court of the other state determines that:

(A) it no longer has exclusive, continuing jurisdiction under section 2 of this chapter; or

(B) an Indiana court would be a more convenient forum under section 8 of this chapter; or

(2) an Indiana court or a court of the other state determines that:

(A) the child;

(B) the child's parents; and

(C) any person acting as a parent;

do not presently reside in the other state.

Sec. 4. (a) An Indiana court has temporary emergency jurisdiction if the child is present in Indiana and:

(1) the child has been abandoned; or

(2) it is necessary in an emergency to protect the child because:

(A) the child;

(B) the child's sibling; or

(C) the child's parent;

is subjected to or threatened with mistreatment or abuse.

(b) If:

(1) there is no previous child custody determination that is

entitled to be enforced under this article; and

(2) a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 1 through 3 of this chapter.

(c) If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter, a child custody determination made under this section becomes a final determination, and, if it so provides, Indiana becomes the home state of the child.

(d) If:

(1) there is a previous child custody determination that is entitled to be enforced under this article; or

(2) a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

an order issued by an Indiana court under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 1 through 3 of this chapter.

(e) The order issued in Indiana remains in effect until an order is obtained from the other state within the period specified or the period expires.

(f) An Indiana court that has been asked to make a child custody determination under this section, on being informed that:

(1) a child custody proceeding has been commenced in; or

(2) a child custody determination has been made by;

a court of a state having jurisdiction under sections 1 through 3 of this chapter, shall immediately communicate with the other court.

(g) An Indiana court that is exercising jurisdiction under sections 1 through 3 of this chapter, on being informed that:

(1) a child custody proceeding has been commenced in; or

(2) a child custody determination has been made by;

a court of another state under a statute similar to this section, shall immediately communicate with the court of the other state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Sec. 5. (a) Before a child custody determination is made under this article, notice and an opportunity to be heard in accordance with the standards of IC 31-21-3-3 must be given to the following persons:

(1) Persons entitled to notice under Indiana law as in child custody proceedings between residents of Indiana.

(2) A parent whose parental rights have not been previously terminated.

(3) Any person having physical custody of the child.

(b) This article does not govern the enforceability of a child custody determination made without notice or an opportunity to be

1 heard.

2 (c) The obligation to join a party and the right to intervene as a
3 party in a child custody proceeding under this article are governed
4 by Indiana law in the same manner as in child custody proceedings
5 between Indiana residents.

6 Sec. 6. (a) Except as otherwise provided in section 4 of this
7 chapter, an Indiana court may not exercise its jurisdiction under
8 this article if, at the time of the commencement of the proceeding,
9 a proceeding concerning the custody of the child has been
10 commenced in a court of another state having jurisdiction
11 substantially in conformity with this article, unless the proceeding:

- 12 (1) has been terminated; or
13 (2) is stayed by the court of the other state because an Indiana
14 court is a more convenient forum under section 8 of this
15 chapter.

16 (b) Except as otherwise provided in section 4 of this chapter, an
17 Indiana court, before hearing a child custody proceeding, shall
18 examine the court documents and other information supplied by
19 the parties under sections 10 through 13 of this chapter. If the
20 court determines that a child custody proceeding has been
21 commenced in a court in another state having jurisdiction
22 substantially in accordance with this article, the Indiana court
23 shall:

- 24 (1) stay its proceeding; and
25 (2) communicate with the court of the other state.
26 If the court of the state having jurisdiction substantially in
27 accordance with this article does not determine that the Indiana
28 court is a more appropriate forum, the Indiana court shall dismiss
29 the proceeding.

30 Sec. 7. In a proceeding to modify a child custody determination,
31 an Indiana court shall determine whether a proceeding to enforce
32 the determination has been commenced in another state. If a
33 proceeding to enforce a child custody determination has been
34 commenced in another state, the Indiana court may:

- 35 (1) stay the proceeding for modification pending the entry of
36 an order of a court of the other state enforcing, staying,
37 denying, or dismissing the proceeding for enforcement;
38 (2) enjoin the parties from continuing with the proceeding for
39 enforcement; or
40 (3) proceed with the modification under conditions the
41 Indiana court considers appropriate.

42 Sec. 8. (a) An Indiana court that has jurisdiction under this
43 article to make a child custody determination may decline to
44 exercise its jurisdiction at any time if the Indiana court determines
45 that:

- 46 (1) the Indiana court is an inconvenient forum under the
47 circumstances; and
48 (2) a court of another state is a more appropriate forum.

49 The issue of inconvenient forum may be raised on motion of a
50 party, the court's own motion, or request of another court.

51 (b) Before determining whether an Indiana court is an

1 inconvenient forum, the Indiana court shall consider whether it is
 2 appropriate for a court of another state to exercise jurisdiction.
 3 For this purpose, the Indiana court shall allow the parties to
 4 submit information and shall consider the relevant factors,
 5 including the following:

6 (1) Whether domestic violence has occurred and is likely to
 7 continue in the future and which state is best able to protect
 8 the parties and the child.

9 (2) The length of time the child has resided outside Indiana.

10 (3) The distance between the Indiana court and the court in
 11 the state that would assume jurisdiction.

12 (4) The relative financial circumstances of the parties.

13 (5) An agreement of the parties as to which state should
 14 assume jurisdiction.

15 (6) The nature and location of the evidence required to resolve
 16 the pending litigation, including the child's testimony.

17 (7) The ability of the court of each state to decide the issue
 18 expeditiously and the procedures necessary to present the
 19 evidence.

20 (8) The familiarity of the court of each state with the facts and
 21 issues in the pending litigation.

22 (c) If an Indiana court determines that it is an inconvenient
 23 forum and that a court of another state is a more appropriate
 24 forum, the Indiana court:

25 (1) shall stay the proceedings on condition that a child custody
 26 proceeding be promptly commenced in another designated
 27 state; and

28 (2) may impose any other condition the Indiana court
 29 considers just and proper.

30 (d) An Indiana court may decline to exercise its jurisdiction
 31 under this article if a child custody determination is incidental to
 32 an action for dissolution of marriage or another proceeding while
 33 still retaining jurisdiction over the dissolution of marriage or other
 34 proceeding.

35 Sec. 9. (a) Except as otherwise provided in section 4 of this
 36 chapter or by any other Indiana law, if an Indiana court has
 37 jurisdiction under this article because a person seeking to invoke
 38 its jurisdiction has engaged in unjustifiable conduct, the court shall
 39 decline to exercise its jurisdiction unless:

40 (1) the child's parents and any person acting as a parent have
 41 acquiesced in the exercise of jurisdiction;

42 (2) a court of the state otherwise having jurisdiction under
 43 sections 1 through 3 of this chapter determines that Indiana
 44 is a more appropriate forum under section 8 of this chapter;
 45 or

46 (3) no court of any other state would have jurisdiction under
 47 the criteria specified in sections 1 through 3 of this chapter.

48 (b) If an Indiana court declines to exercise its jurisdiction under
 49 subsection (a), the Indiana court may fashion an appropriate
 50 remedy to:

51 (1) ensure the safety of the child; and

(2) prevent a repetition of the unjustifiable conduct; including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 1 through 3 of this chapter.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction under subsection (a), the court shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including:

- (1) costs;
- (2) communication expenses;
- (3) attorney's fees;
- (4) investigative fees;
- (5) expenses for witnesses;
- (6) travel expenses; and
- (7) child care during the course of the proceedings;

unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against the state unless authorized by law other than this article.

Sec. 10. (a) Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall provide information, under oath, regarding:

- (1) the child's present address or whereabouts and the places where the child has lived during the immediately preceding five (5) years; and
- (2) the names and present addresses of the persons with whom the child has lived during that period.

(b) The pleading or affidavit must state the following:

- (1) Whether the party has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify:

- (A) the court;
- (B) the case number; and
- (C) the date of the child custody determination, if any.

- (2) Whether the party knows of a proceeding that may affect the current proceeding, including proceedings for enforcement and proceedings relating to:

- (A) domestic violence;
- (B) protective orders;
- (C) termination of parental rights; and
- (D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

- (3) Whether the party knows the names and addresses of a person not a party to the proceeding who:

- (A) has physical custody of the child; or
- (B) claims rights of legal custody or physical custody of, or visitation with, the child;

and, if so, the names and addresses of the persons.

(c) If the information required by subsection (a) is not furnished, the court, on motion of a party or its own motion, may stay the proceeding until the information is furnished.

Sec. 11. If the declaration as to any of the items described in section 10(b)(1) through 10(b)(3) of this chapter is in the affirmative, the party shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to:

- (1) the court's jurisdiction; and
- (2) the disposition of the case.

Sec. 12. Each party has a continuing duty to inform the court of a proceeding in Indiana or any other state that may affect the current proceeding.

Sec. 13. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court:

- (1) takes into consideration the health, safety, or liberty of the party or child; and
- (2) determines that the disclosure is in the interest of justice.

Sec. 14. (a) In a child custody proceeding in Indiana, the court may order a party to the proceeding who is in Indiana to appear before the court in person with or without the child. The court may order any person who:

- (1) is in Indiana; and
- (2) has physical custody or control of the child;

to appear in person with the child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside Indiana, the court may order that a notice given under IC 31-21-3-3 include a statement:

- (1) directing the party to appear in person with or without the child; and
- (2) informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter an order necessary to ensure the safety of:

- (1) the child; and
- (2) any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside Indiana:

- (1) is directed to appear under subsection (b); or
- (2) desires to appear personally before the court with or without the child;

the court may require another party to pay reasonable and necessary travel and other expenses of the party who appears and of the child.

Chapter 6. Enforcement

Sec. 1. Under this chapter, an Indiana court may enforce an

1 order for the return of the child made under the Hague Convention
 2 on the Civil Aspects of International Child Abduction as if it were
 3 a child custody determination.

4 Sec. 2. (a) An Indiana court shall recognize and enforce a child
 5 custody determination of a court of another state if the court of
 6 another state exercised jurisdiction in substantial conformity with
 7 this article or the determination:

8 (1) was made under factual circumstances meeting the
 9 jurisdictional standards of this article; and

10 (2) has not been modified in accordance with this article.

11 (b) An Indiana court may use a remedy available under any
 12 other Indiana law to enforce a child custody determination made
 13 by a court of another state. The remedies provided in this article:

14 (1) are cumulative; and

15 (2) do not affect the availability of other remedies to enforce
 16 a child custody determination.

17 Sec. 3. (a) An Indiana court that does not have jurisdiction to
 18 modify a child custody determination may issue a temporary order
 19 enforcing:

20 (1) a visitation schedule made by a court of another state; or

21 (2) the visitation provisions of a child custody determination
 22 of another state that does not provide for a specific visitation
 23 schedule.

24 (b) If an Indiana court makes an order under subsection (a)(2),
 25 the Indiana court shall specify in the order a period that it
 26 considers adequate to allow the petitioner to obtain an order from
 27 a court having jurisdiction under the criteria specified in
 28 IC 31-21-5. The order remains in effect until:

29 (1) an order is obtained from the court having jurisdiction; or

30 (2) the period expires.

31 Sec. 4. (a) A child custody determination issued by a court of
 32 another state may be registered in Indiana, with or without a
 33 simultaneous request for enforcement, by sending the following to
 34 the appropriate Indiana court:

35 (1) A letter or other document requesting registration.

36 (2) Two (2) copies, including one (1) certified copy, of the
 37 determination sought to be registered and a statement under
 38 penalty of perjury that to the best of the knowledge and belief
 39 of the person seeking registration the order has not been
 40 modified.

41 (3) Except as otherwise provided in section 13 of this chapter:

42 (A) the name and address of the person seeking
 43 registration; and

44 (B) the name of a parent or person acting as a parent who
 45 has been awarded custody or visitation in the child custody
 46 determination sought to be registered.

47 (b) On receipt of the documents required by subsection (a), the
 48 registering court shall:

49 (1) cause the determination to be filed as a foreign judgment,
 50 together with one (1) copy of the accompanying documents
 51 and information, regardless of their form; and

(2) serve notice on each person named under subsection (a)(3) and provide the person with an opportunity to contest the registration in accordance with this section.

(c) The notice required by subsection (b)(2) must state the following:

(1) A registered determination is enforceable as of the date of the registration in the same manner as a child custody determination issued by an Indiana court.

(2) A hearing to contest the validity of the registered determination must be requested not more than twenty (20) days after service of notice.

(3) Failure to contest the registration shall:

(A) result in confirmation of the child custody determination; and

(B) preclude further contest of that determination with respect to a matter that may have otherwise been asserted.

Sec. 5. (a) A person seeking to contest the validity of a registered order must request a hearing not more than twenty (20) days after service of the notice. At the hearing, the court shall confirm the registered order unless the person contesting the registration establishes that:

(1) the issuing court did not have jurisdiction under IC 31-21-5;

(2) the child custody determination sought to be registered has been:

(A) vacated;

(B) stayed; or

(C) modified;

by a court having jurisdiction to do so under IC 31-21-5; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which registration is sought.

(b) If a timely request for a hearing to contest the validity of the registration is not made:

(1) the registration is confirmed as a matter of law; and

(2) the person requesting registration and each person served must be notified of the confirmation.

(c) Confirmation of a registered order whether:

(1) by operation of law; or

(2) after notice and hearing;

precludes further contest of the order with respect to a matter that may have been asserted at the time of registration.

Sec. 6. (a) An Indiana court may grant a relief normally available under Indiana law to enforce a registered child custody determination made by a court of another state.

(b) An Indiana court shall recognize and enforce, but may not modify, except in accordance with IC 31-21-5, a registered child custody determination of a court of another state.

Sec. 7. If a proceeding for enforcement under this article is commenced in an Indiana court and the court determines that a

proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under IC 31-21-5, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Sec. 8. (a) A petition under this article must be verified. Certified copies of:

- (1) the orders sought to be enforced; and
- (2) an order confirming registration;

must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state the following:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied on in exercising jurisdiction and, if so, what the basis was.

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this article and, if so, identify:

- (A) the court;
- (B) the case number; and
- (C) the nature of the proceeding.

(3) Whether a proceeding has been commenced that may affect the current proceeding, including proceedings relating to:

- (A) domestic violence;
- (B) protective orders;
- (C) termination of parental rights; and
- (D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent, if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under sections 4 and 5 of this chapter, the date and place of registration.

Sec. 9. (a) On the filing of a petition, the court:

- (1) shall issue an order directing the respondent to appear in person with or without the child at a hearing; and
- (2) may enter an order necessary to ensure the safety of the parties and the child.

The hearing must be held on the next judicial day after service of the order unless holding the hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day

possible. The court may extend the date of hearing at the request of the petitioner.

(b) An order issued under subsection (a) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 15 of this chapter and may schedule a hearing to determine whether further relief is appropriate unless the respondent appears and establishes that:

(1) the child custody determination has not been registered and confirmed under sections 4 and 5 of this chapter and that:

(A) the issuing court did not have jurisdiction under IC 31-21-5;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction under IC 31-21-5; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under sections 4 and 5 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-21-5.

Sec. 10. Except as otherwise provided in section 13 or 14 of this chapter, the petition and order must be served, by a method authorized by Indiana law, on the respondent and any person who has physical custody of the child.

Sec. 11. Unless the court issues a temporary emergency order under IC 31-21-5-4 on a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) the child custody determination has not been registered and confirmed under sections 4 and 5 of this chapter and that:

(A) the issuing court did not have jurisdiction under IC 31-21-5;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under IC 31-21-5; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under sections 4 and 5 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-21-5.

Sec. 12. (a) The court:

(1) shall award the fees, costs, and expenses authorized under section 15 of this chapter; and

(2) may grant additional relief, including a request for the assistance of law enforcement officials, and set a hearing to determine whether additional relief is appropriate.

(b) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(c) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this chapter.

Sec. 13. (a) On the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to:

- (1) suffer serious physical harm; or
- (2) be removed from Indiana.

(b) If the court, on the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from Indiana, the court may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless hearing the petition on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 8(b) of this chapter.

Sec. 14. (a) A warrant to take physical custody of a child must:

- (1) recite the facts on which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;
- (2) direct law enforcement officers to take physical custody of the child immediately; and
- (3) provide for the placement of the child pending final relief.

(b) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(c) A warrant to take physical custody of a child is enforceable throughout Indiana. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, the court may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(d) The court may impose conditions on the placement of a child to ensure the appearance of the child and the child's custodian.

Sec. 15. (a) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including:

- (1) costs;
- (2) communication expenses;
- (3) attorney's fees;
- (4) investigative fees;
- (5) expenses for witnesses;

1 (6) travel expenses; and
 2 (7) child care during the course of the proceedings;
 3 unless the party from whom fees or expenses are sought establishes
 4 that the award would be clearly inappropriate.

5 (b) The court may not assess fees, costs, or expenses against a
 6 state unless authorized by law other than this article.

7 Sec. 16. An Indiana court shall accord full faith and credit to an
 8 order issued by another state and consistent with this article that
 9 enforces a child custody determination by a court of another state
 10 unless the order has been vacated, stayed, or modified by a court
 11 having jurisdiction under IC 31-21-5.

12 Sec. 17. An appeal may be taken from a final order in a
 13 proceeding under this article in accordance with expedited
 14 appellate procedures in other civil cases. Unless the court enters a
 15 temporary emergency order under IC 31-21-5-4, the enforcing
 16 court may not stay an order enforcing a child custody
 17 determination pending appeal.

18 Sec. 18. (a) In a case arising under this article or involving the
 19 Hague Convention on the Civil Aspects of International Child
 20 Abduction, a prosecuting attorney or other appropriate public
 21 official may take a lawful action, including resorting to a
 22 proceeding under this article or any other available civil
 23 proceeding, to locate a child, obtain the return of a child, or
 24 enforce a child custody determination if there is:

- 25 (1) an existing child custody determination;
- 26 (2) a request to do so from a court in a pending child custody
- 27 proceeding;
- 28 (3) a reasonable belief that a criminal statute has been
- 29 violated; or
- 30 (4) a reasonable belief that the child has been wrongfully
- 31 removed or retained in violation of the Hague Convention on
- 32 the Civil Aspects of International Child Abduction.

33 (b) A prosecuting attorney or other appropriate public official
 34 acting under this section acts on behalf of the court and may not
 35 represent a party.

36 Sec. 19. At the request of a prosecuting attorney or other
 37 appropriate public official acting under section 18 of this chapter,
 38 a law enforcement officer may:

- 39 (1) take a lawful action reasonably necessary to locate a child
- 40 or a party; and
- 41 (2) assist a prosecuting attorney or appropriate public official
- 42 with responsibilities under section 18 of this chapter.

43 Sec. 20. If the respondent is not the prevailing party, the court
 44 may assess against the respondent the direct expenses and costs
 45 incurred by the prosecuting attorney or other appropriate public
 46 official and law enforcement officers under section 18 or 19 of this
 47 chapter.

48 Chapter 7. Miscellaneous Provisions

49 Sec. 1. In applying and construing this article, consideration
 50 must be given to the need to promote uniformity of the law with
 51 respect to its subject matter among states that enact it.

1 **Sec. 2. If a provision of this article or its application to a person**
 2 **or circumstance is held invalid, the invalidity does not affect other**
 3 **provisions or applications of this article that can be given effect**
 4 **without the invalid provision or application, and to this end the**
 5 **provisions of this article are severable.**

6 **Sec. 3. A motion or other request for relief made:**

7 **(1) in a child custody proceeding; or**

8 **(2) to enforce a child custody determination;**

9 **that was commenced before July 1, 2007, is governed by the law in**
 10 **effect at the time the motion or other request was made.**

11 SECTION 46. IC 31-25-2-20.4 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2007]: **Sec. 20.4. (a) The department shall**
 14 **establish at least three (3) citizen review panels in accordance with**
 15 **the requirements of the federal Child Abuse Prevention and**
 16 **Treatment Act under 42 U.S.C. 5106a.**

17 **(b) A citizen review panel consists of volunteer members who**
 18 **broadly represent the community in which the panel is established,**
 19 **including members who have expertise in the prevention and**
 20 **treatment of child abuse and neglect.**

21 **(c) The department shall appoint the citizen review panels in the**
 22 **following manner:**

23 **(1) One (1) panel must be a community child protection team**
 24 **established in a county under IC 31-33-3-1, selected by the**
 25 **director of the department with the consent of the team.**

26 **(2) One (1) panel must be either:**

27 **(A) the statewide child fatality review committee**
 28 **established under IC 31-33-25-6; or**

29 **(B) a local child fatality review team established under**
 30 **IC 31-33-24-6;**

31 **selected by the director of the department with the consent of**
 32 **the committee or team.**

33 **(3) One (1) panel must be a foster care advisory panel**
 34 **consisting of at least five (5) and not more than eleven (11)**
 35 **members, selected to the extent feasible from the membership**
 36 **of any foster care advisory group previously established or**
 37 **recognized by the department. If the panel consists of seven**
 38 **(7) or fewer members, the panel must include at least one (1)**
 39 **foster parent licensed by the department through a county**
 40 **office and one (1) foster parent licensed by the department**
 41 **through a child placing agency licensed under IC 31-27-6. If**
 42 **the panel consists of more than seven (7) members, the panel**
 43 **must include two (2) foster parents licensed by the**
 44 **department through a county office and two (2) foster parents**
 45 **licensed by the department through a child placing agency**
 46 **licensed under IC 31-27-6. Additional members of the panel**
 47 **must include one (1) or more individuals who are employed by**
 48 **a child placing agency licensed under IC 31-27-6 and who**
 49 **provide services to foster families and children placed by the**
 50 **department in out-of-home placements, and may include**
 51 **other representatives of child welfare service providers or**

persons who provide training to current or prospective foster parents. All members of this panel must be individuals who are not employees of the department.

(4) The membership of any additional citizen review panels established under this section shall be determined by the director of the department, consistent with the guidelines for panel membership stated in subsection (b) and the purposes and functions of the panels as described in this section.

(5) Each citizen review panel shall be appointed for a term of three (3) years beginning July 1, 2007. Upon expiration of the term of the panel described in subdivision (1), the director of the department shall select a community child protection team established in a different county for the succeeding term. Upon expiration of the term of the panel described in subdivision (2), the director of the department shall select a different fatality review team, or committee, if available, for the succeeding term. Panels appointed under subdivision (3) or (4) may be reappointed for successive terms, in the discretion of the director of the department. The director may appoint individuals as needed to fill vacancies that occur during the term of any panel appointed under subdivision (3) or (4).

(d) A citizen review panel shall evaluate the extent to which a child welfare agency is effectively discharging the agency's child protection responsibilities by examining:

- (1) the policies and procedures of child welfare agencies;
- (2) if appropriate, specific child protective services cases; and
- (3) other criteria the citizen review panel considers important to ensure the protection of children.

(e) Each citizen review panel shall:

- (1) meet at least one (1) time every three (3) months; and
- (2) prepare and make available to the department and the public an annual report that contains a summary of the activities of the citizen review panel.

(f) The department shall, not more than six (6) months after the date the department receives a report from a citizen review panel under subsection (e), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(g) A child welfare agency shall make all reports and other materials in the child welfare agency's possession available to a citizen review panel established under this section, including any reports and materials that the child welfare agency has received from other agencies.

(h) A member of a citizen review panel may not disclose to a person or government official any identifying information that is provided to the citizen review panel about:

- (1) a specific child protective services case or child welfare agency case;

- (2) a child or member of the child's family who is the subject of a child protective services investigation; or
- (3) any other individuals identified in confidential reports, documents, or other materials.

(i) If a member of a citizen review panel violates subsection (h), the department may remove the member from the citizen review panel.

(j) A child welfare agency shall cooperate and work with each citizen review panel established under this section.

SECTION 47. IC 31-27-3-3, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) An applicant must apply for a child caring institution license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) The department, on behalf of an applicant, or, at the discretion of the department, an applicant, shall

(+) conduct a criminal history check of the following:

(A) (1) Each individual who is an applicant. and

(B) (2) The director or manager of a facility where children will be placed. and

(2) submit to the department the result of each criminal history check conducted under this subsection.

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) If the applicant conducts a criminal history check under subsection (d), the applicant shall: do the following:

(+) Conduct a criminal history check of the applicant's:

(A) employees; and

(B) volunteers;

who have or will have direct contact; on a regular and continuing basis; with children who are or will be under the direct supervision of the applicant.

(2) (1) maintain records of each the information it receives concerning each individual who is the subject of a criminal history check; and

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1)

through (d)(3).

(f) An applicant is required to conduct a criminal history check required under subsection (c)(1) only one (1) time.

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision

(1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date the person is employed or assigned as a volunteer. However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(i) An applicant or licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the

1 direct contact occurs only in the presence of a volunteer or
 2 employee of the applicant or licensee who has been the subject of
 3 a completed and approved criminal history check. In determining
 4 whether to provisionally hire or assign as a volunteer an individual
 5 described in subsection (d)(3), the applicant or licensee shall
 6 consider the following:

7 (1) The training time required by an employee or a volunteer.

8 (2) The safety and security of the children under the
 9 supervision of the applicant or licensee.

10 (3) The safety and security of the other staff and volunteers
 11 working under the supervision of the applicant or licensee.

12 (4) The staffing concerns of the applicant or licensee.

13 (5) Any other factor relating to the safety and security of the
 14 applicant's or licensee's operations.

15 ~~(g)~~ (j) The department shall, at the applicant's request, inform the
 16 applicant whether the department has or does not have a record of the
 17 person who is the subject of a criminal history background check and
 18 if the department has identified the person as an alleged perpetrator of
 19 abuse or neglect. The department may not provide to the applicant any
 20 details or personally identifying information contained in any child
 21 protective services investigation report.

22 (k) A person who is the subject of a criminal history check
 23 conducted in accordance with this section may request the state
 24 police department to provide the person with a copy of any state or
 25 national criminal history report concerning the person.

26 SECTION 48. IC 31-27-3-5, AS ADDED BY P.L.145-2006,
 27 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The following constitute
 29 sufficient grounds for a denial of a license application:

30 (1) A determination by the department of child abuse or neglect
 31 by:

32 (A) the applicant;

33 (B) an employee of the applicant who has direct contact, on a
 34 regular and continuous basis, with children who are under the
 35 direct supervision of the applicant; or

36 (C) a volunteer of the applicant who has direct contact, on a
 37 regular and continuous basis, with children who are under the
 38 direct supervision of the applicant.

39 (2) A criminal conviction of the applicant, ~~an employee of the~~
 40 ~~applicant who has direct contact, on a regular and continuous~~
 41 ~~basis, with children who are under the direct supervision of the~~
 42 ~~applicant, or a volunteer of the applicant who has direct contact,~~
 43 ~~on a regular and continuous basis, with children who are under~~
 44 ~~the direct supervision of the applicant or the director or~~
 45 ~~manager of a facility where children will be placed by the~~
 46 ~~applicant, of:~~

47 (A) a felony; ~~or~~

48 (B) a misdemeanor related to the health and safety of a child;

49 (C) ~~a misdemeanor for operating a child caring institution,~~
 50 ~~foster family home, group home, or child placing agency~~
 51 ~~without a license under this article (or IC 12-17.4 before its~~

1 repeal); or

2 **(D) a misdemeanor for operating a child care center or**
 3 **child care home without a license under IC 12-17.2.**

4 (3) A determination by the department that the applicant made
 5 false statements in the applicant's application for licensure.

6 (4) A determination by the department that the applicant made
 7 false statements in the records required by the department.

8 **(5) A determination by the department that the applicant**
 9 **previously operated a home or facility without a license**
 10 **required under any applicable provision of this article (or**
 11 **IC 12-17.4 before its repeal) or IC 12-17.2.**

12 **(b) An application for a license may also be denied if an**
 13 **employee or volunteer of the applicant who has direct contact on**
 14 **a regular and continuous basis with children who are under the**
 15 **direct supervision of the applicant has been convicted of any of the**
 16 **following:**

17 **(1) A felony described in IC 31-27-4-13(a).**

18 **(2) Any other felony or a misdemeanor relating to the health**
 19 **and safety of a child, unless the applicant is granted a waiver**
 20 **by the department to employ or assign the person as a**
 21 **volunteer in a position described in this subsection.**

22 **(c) In determining whether to grant a waiver under subsection**
 23 **(b), the department shall consider the following factors:**

24 **(1) The length of time that has passed since the disqualifying**
 25 **conviction.**

26 **(2) The severity, nature, and circumstances of the offense.**

27 **(3) Evidence of rehabilitation.**

28 **(4) The duties and qualifications required for the proposed**
 29 **employment positions or volunteer assignment.**

30 ~~(b)~~ **(d) Notwithstanding subsection (a)(2), (a) or (b), if:**

31 (1) a license application ~~is~~ **could be** denied due to a criminal
 32 conviction of, **or a determination of child abuse or neglect by,**
 33 an employee or a volunteer of the applicant; and

34 (2) the department determines that the employee or volunteer has
 35 been dismissed by the applicant;

36 the criminal conviction of, **or determination of child abuse or neglect**
 37 **by,** the former employee or former volunteer does not ~~require~~
 38 **constitute a sufficient basis for the** denial of a license application.

39 **(e) The department may adopt rules to implement this section.**

40 SECTION 49. IC 31-27-3-18, AS ADDED BY P.L.145-2006,
 41 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A licensee shall keep
 43 records regarding each child in the control and care of the licensee as
 44 the department requires and shall report to the department upon request
 45 the facts the department requires with reference to children.

46 (b) The department shall keep records regarding children and facts
 47 learned about children and the children's parents or relatives
 48 confidential.

49 (c) The following have access to records regarding children and
 50 facts learned about children:

51 (1) A state agency involved in the licensing of the child caring

1 institution.

2 (2) A legally mandated child protection agency.

3 (3) A law enforcement agency.

4 (4) An agency having the legal responsibility to care for a child
5 placed at the child caring institution.

6 (5) The parent, guardian, or custodian of the child at the child
7 caring institution.

8 **(6) A citizen review panel established under IC 31-25-2-20.4.**

9 SECTION 50. IC 31-27-3-31, AS ADDED BY P.L.145-2006,
10 SECTION 273, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2007]: Sec. 31. (a) The following constitute
12 sufficient grounds for revocation of a license:

13 (1) A determination by the department of child abuse or neglect
14 by:

15 (A) the licensee;

16 (B) an employee of the licensee who has direct contact, on a
17 regular and continuous basis, with children who are under the
18 direct supervision of the licensee; or

19 (C) a volunteer of the licensee who has direct contact, on a
20 regular and continuous basis, with children who are under the
21 direct supervision of the licensee.

22 (2) A criminal conviction of the licensee, ~~an employee of the~~
23 ~~licensee who has direct contact, on a regular and continuous~~
24 ~~basis, with children who are under the direct supervision of the~~
25 ~~licensee, or a volunteer of the licensee who has direct contact, on~~
26 ~~a regular and continuous basis, with children who are under the~~
27 ~~direct supervision of the licensee or the director or manager of~~
28 ~~a facility where children will be placed by the licensee, of any~~
29 of the following:

30 (A) A felony.

31 (B) A misdemeanor related to the health or safety of a child.

32 **(C) A misdemeanor for operating a child caring institution,**
33 **foster family home, group home, or child placing agency**
34 **without a license under this article (or IC 12-17.4 before its**
35 **repeal).**

36 **(D) A misdemeanor for operating a child care center or**
37 **child care home without a license under IC 12-17.2.**

38 (3) A determination by the department that the licensee made
39 false statements in the licensee's application for licensure.

40 (4) A determination by the department that the licensee made
41 false statements in the records required by the department.

42 **(5) A determination by the department that the licensee**
43 **previously operated a home or facility without a license**
44 **required under any applicable provision of this article (or**
45 **IC 12-17.4 before its repeal) or IC 12-17.2.**

46 **(b) A license may also be revoked if an employee or volunteer of**
47 **the licensee who has direct contact on a regular and continuous**
48 **basis with children who are under the direct supervision of the**
49 **licensee has been convicted of any of the following:**

50 (1) A felony described in IC 31-27-4-13(a).

51 (2) Any other felony or a misdemeanor relating to the health

1 **and safety of a child, unless the licensee is granted a waiver by**
 2 **the department to employ or assign the person as a volunteer**
 3 **in a position described in this subsection.**

4 **(c) In determining whether to grant a waiver under subsection**
 5 **(b), the department shall consider the following factors:**

6 **(1) The length of time that has passed since the disqualifying**
 7 **conviction.**

8 **(2) The severity, nature, and circumstances of the offense.**

9 **(3) Evidence of rehabilitation.**

10 **(4) The duties and qualifications required for the proposed**
 11 **employment positions or volunteer assignment.**

12 **(d) Notwithstanding subsection (a) or (b), if:**

13 **(1) a license could be revoked due to a criminal conviction of,**
 14 **or a determination of child abuse or neglect by, an employee**
 15 **or a volunteer of the licensee; and**

16 **(2) the department determines that the employee or volunteer**
 17 **has been dismissed by the licensee within a reasonable time**
 18 **after the licensee became aware of the conviction or**
 19 **determination;**

20 **the criminal conviction of, or determination of child abuse or**
 21 **neglect by, the former employee or former volunteer does not**
 22 **constitute a sufficient basis for the revocation of a license.**

23 **(e) The department may adopt rules to implement this section.**

24 SECTION 51. IC 31-27-4-5, AS ADDED BY P.L.145-2006,
 25 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) An applicant must apply for
 27 a foster family home license on forms provided by the department.

28 (b) An applicant must submit the required information as part of the
 29 application.

30 (c) An applicant must submit with the application a statement
 31 attesting the following:

32 (1) That the applicant has not been convicted of:

33 (A) a felony; or

34 (B) a misdemeanor relating to the health and safety of
 35 children.

36 (2) That the applicant has not been charged with:

37 (A) a felony; or

38 (B) a misdemeanor relating to the health and safety of
 39 children;

40 during the pendency of the application.

41 (d) An applicant shall submit the necessary information, forms, or
 42 consents for the department to conduct a criminal history check for
 43 each individual who is an applicant.

44 (e) **The department or, at the discretion of the department, an**
 45 **applicant, shall do the following:**

46 ~~(i)~~ conduct a criminal history check of:

47 ~~(A)~~ (1) the applicant's

48 ~~(i)~~ employees and

49 ~~(ii)~~ volunteers

50 who have or will have direct contact, on a regular and continuing
 51 basis, with children who are or will be under the direct

supervision of the applicant; and

~~(B)~~ (2) all household members who are at least fourteen (14) years of age.

~~(2)~~ (f) If the applicant conducts criminal history checks under subsection (e), the applicant shall maintain records of each criminal history check; the information received concerning each individual subject of a criminal history check.

~~(f)~~ (g) If the department conducts a criminal history check on behalf of an applicant under subsection (e), the department shall:

(1) make a determination whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (e); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (e).

(h) Except as provided in subsection (i), a criminal history check described in subsection (e) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(i) With the exception of a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1), a criminal history check concerning a person described in subsection (e) must be completed on or before the date on which the subject of the check is first employed or assigned as a volunteer in a position described in subsection (e)(1) or first becomes a resident of the applicant's household as described in subsection (e)(2). A fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer. However, if a person described in this subsection has been the subject of a criminal history check that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

An applicant is required to conduct a criminal history check required under subsection ~~(e)~~(f) only one ~~(1)~~ time.

~~(g)~~ (j) An applicant or a licensee described in subsection (e)(1) may provisionally employ an individual or assign a volunteer for whom a criminal history check is required during the period after the process of requesting fingerprint based criminal history

background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (c)(1), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(k) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(l) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 52. IC 31-27-4-6, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

- (1) A determination by the department of child abuse or neglect by:
 - (A) the applicant;
 - (B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; ~~or~~
 - (C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; ~~or~~
 - (D) a person residing in the applicant's residence who is at least eighteen (18) years of age.
- (2) A criminal conviction of the applicant ~~an employee of the~~

applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; of any of the following:

(A) a felony; or

(B) a misdemeanor related to the health and safety of a child;

(C) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5; or

(D) a misdemeanor for operating a foster family home without a license under of this chapter (or IC 12-17.4-4 before its repeal).

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that the applicant previously operated a:

(A) child care center or child care home without a license under IC 12-17.2-5; or

(B) foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(b) An application for a license may also be denied if an individual who resides in the residence of the applicant or an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the applicant's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(5) The nature and extent of unsupervised contact with children residing in the home.

~~(b)~~ **(d) Notwithstanding subsection (a)(2), (a) or (b), if:**

(1) a license application is could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee, or a volunteer, or a person residing in the residence of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant or that the person residing in

1 **the residence no longer resides there;**
 2 the criminal conviction of, **or determination of child abuse or neglect**
 3 **by**, the former employee, ~~or~~ former volunteer, **or former household**
 4 **resident** does not ~~require~~ **constitute a sufficient basis for the denial**
 5 of a license application.

6 **(e) The department may adopt rules to implement this section.**

7 SECTION 53. IC 31-27-4-13, AS ADDED BY P.L.145-2006,
 8 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The department shall deny
 10 a license when an applicant fails to meet the requirements for a license.
 11 The department shall deny a license to an applicant who has been
 12 convicted of any of the following felonies:

13 (1) Murder (IC 35-42-1-1).

14 (2) Causing suicide (IC 35-42-1-2).

15 (3) Assisting suicide (IC 35-42-1-2.5).

16 (4) Voluntary manslaughter (IC 35-42-1-3).

17 (5) Reckless homicide (IC 35-42-1-5).

18 (6) Battery (IC 35-42-2-1).

19 **(7) Domestic battery (IC 35-42-2-1.3).**

20 ~~(7)~~ **(8)** Aggravated battery (IC 35-42-2-1.5).

21 ~~(8)~~ **(9)** Kidnapping (IC 35-42-3-2).

22 ~~(9)~~ **(10)** Criminal confinement (IC 35-42-3-3).

23 ~~(10)~~ **(11)** A felony sex offense under IC 35-42-4.

24 ~~(11)~~ **(12)** Carjacking (IC 35-42-5-2).

25 ~~(12)~~ **(13)** Arson (IC 35-43-1-1).

26 ~~(13)~~ **(14)** Incest (IC 35-46-1-3).

27 ~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and
 28 IC 35-46-1-4(a)(2)).

29 ~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).

30 ~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or
 31 IC 35-47.5.

32 ~~(17)~~ **(18)** A felony relating to controlled substances under
 33 IC 35-48-4.

34 ~~(18)~~ **(19)** An offense relating to material or a performance that is
 35 harmful to minors or obscene under IC 35-49-3.

36 ~~(19)~~ **(20)** A felony that is substantially equivalent to a felony
 37 listed in subdivisions (1) through ~~(18)~~ **(19)** for which the
 38 conviction was entered in another state.

39 The department may deny a license to an applicant who has been
 40 convicted of a felony that is not listed in this subsection.

41 (b) The department shall send written notice by certified mail that
 42 the application has been denied and give the reasons for the denial.

43 (c) An administrative hearing concerning the denial of a license
 44 shall be provided upon written request by the applicant. The request
 45 must be made not more than thirty (30) days after receiving the written
 46 notice under subsection (b).

47 (d) An administrative hearing shall be held not more than sixty (60)
 48 days after receiving a written request.

49 (e) An administrative hearing shall be held in accordance with
 50 IC 4-21.5-3.

(f) The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

SECTION 54. IC 31-27-4-21, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the foster family home.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for a child placed at the foster family home.
- (5) The parent, guardian, or custodian of the child at the foster family home.

(6) A citizen review panel established under IC 31-25-2-20.4.

SECTION 55. IC 31-27-4-32, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

- (1) A determination by the department of child abuse or neglect by:
 - (A) the licensee;
 - (B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; ~~or~~
 - (C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; ~~or~~
 - (D) a person at least eighteen (18) years of age who is residing in the home of the licensee.**

(2) A criminal conviction of the licensee ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or~~ for any of the following:

- (A) A felony.
- (B) A misdemeanor related to the health or safety of a child.
- (C) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5.**
- (D) A misdemeanor for operating a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).**

(3) A determination by the department that the licensee made

1 false statements in the licensee's application for licensure.

2 (4) A determination by the department that the licensee made
3 false statements in the records required by the department.

4 **(5) A determination by the department that the licensee**
5 **previously operated a:**

6 **(A) child care center or child care home without a license**
7 **under IC 12-17.2-5; or**

8 **(B) foster family home without a license under this chapter**
9 **(or IC 12-17.4-4 before its repeal).**

10 **(b) A license may also be revoked if an individual who resides in**
11 **the residence of the licensee or an employee or volunteer of the**
12 **licensee who has direct contact on a regular and continuous basis**
13 **with children who are under the direct supervision of the licensee**
14 **has been convicted of any of the following:**

15 **(1) A felony described in IC 31-27-4-13(a).**

16 **(2) Any other felony or a misdemeanor relating to the health**
17 **and safety of a child, unless the licensee is granted a waiver by**
18 **the department to employ or assign the person as a volunteer**
19 **in a position described in this subsection or to permit the**
20 **individual to reside in the licensee's residence.**

21 **(c) In determining whether to grant a waiver under subsection**
22 **(b), the department shall consider the following factors:**

23 **(1) The length of time that has passed since the disqualifying**
24 **conviction.**

25 **(2) The severity, nature, and circumstances of the offense.**

26 **(3) Evidence of rehabilitation.**

27 **(4) The duties and qualifications required for the proposed**
28 **employment positions or volunteer assignment.**

29 **(d) Notwithstanding subsection (b), if:**

30 **(1) a license could be revoked due to a criminal conviction of,**
31 **or a determination of child abuse or neglect by, an employee**
32 **or a volunteer of the licensee or an individual residing in the**
33 **residence of the licensee; and**

34 **(2) the department determines that the employee or volunteer**
35 **has been dismissed by the licensee within a reasonable time**
36 **after the licensee became aware of the conviction or that the**
37 **individual no longer resides in the licensee's residence;**

38 **the criminal conviction of, or determination of child abuse or**
39 **neglect by, the former employee, former volunteer, or former**
40 **household resident does not constitute a sufficient basis for the**
41 **revocation of a license.**

42 **(e) The department may adopt rules to implement this section.**

43 SECTION 56. IC 31-27-5-4, AS ADDED BY P.L.145-2006,
44 SECTION 273, IS AMENDED TO READ AS FOLLOWS
45 [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) An applicant must apply for
46 a group home license on forms provided by the department.

47 (b) An applicant must submit the required information as part of the
48 application.

49 (c) An applicant must submit with the application a statement
50 attesting the following:

51 (1) That the applicant has not been convicted of:

- 1 (A) a felony; or
- 2 (B) a misdemeanor relating to the health and safety of
- 3 children.
- 4 (2) That the applicant has not been charged with:
- 5 (A) a felony; or
- 6 (B) a misdemeanor relating to the health and safety of
- 7 children;
- 8 during the pendency of the application.
- 9 (d) **The department on behalf of an applicant, or, at the**
- 10 **discretion of the department,** an applicant, shall ~~(1)~~ conduct a
- 11 criminal history check of **the following:**
- 12 ~~(A)~~ (1) Each individual who is an applicant. ~~and~~
- 13 ~~(B)~~ (2) The director or manager of a facility where children will
- 14 be placed. ~~and~~
- 15 (2) submit to the department the result of each criminal history
- 16 check conducted under this subsection.
- 17 (3) An employee or a volunteer of the applicant who has or
- 18 will have direct contact on a regular and continuing basis with
- 19 a child who is or will be placed in a facility operated by the
- 20 applicant.
- 21 (e) ~~An~~ If the applicant conducts a criminal history check under
- 22 subsection (d), the applicant shall: ~~do the following:~~
- 23 (1) Conduct a criminal history check of the applicant's:
- 24 (A) employees; and
- 25 (B) volunteers;
- 26 who have or will have direct contact, on a regular and continuing
- 27 basis, with children who are or will be under the direct
- 28 supervision of the applicant.
- 29 ~~(2)~~ (1) maintain records of each criminal history check: the
- 30 information it receives concerning each individual who is the
- 31 subject of a criminal history check; and
- 32 (2) submit to the department a copy of the information the
- 33 applicant receives concerning each person described in
- 34 subsection (d)(1) through (d)(3).
- 35 (f) If the department conducts a criminal history check on
- 36 behalf of an applicant under subsection (d), the department shall:
- 37 (1) determine whether the subject of a national fingerprint
- 38 based criminal history check has a record of a conviction for:
- 39 (A) a felony; or
- 40 (B) a misdemeanor relating to the health and safety of a
- 41 child;
- 42 (2) notify the applicant of the determination under subdivision
- 43 (1) without identifying a specific offense or other identifying
- 44 information concerning a conviction contained in the national
- 45 criminal history record information;
- 46 (3) submit to the applicant a copy of any state limited criminal
- 47 history report that the department receives on behalf of any
- 48 person described in subsection (d); and
- 49 (4) maintain a record of every report and all information it
- 50 receives concerning a person described in subsection (d).
- 51 (g) Except as provided in subsection (h), a criminal history

1 check described in subsection (d) is required only at the time an
 2 application for a new license or the renewal of an existing license
 3 is submitted.

4 (h) A criminal history check of a person described in subsection
 5 (d)(2) or (d)(3) must be completed on or before the date on which
 6 the subject of the check is employed or assigned as a volunteer.
 7 However, a fingerprint based criminal history background check
 8 under IC 31-9-2-22.5(1)(B) for a person described in subsection (d)
 9 must be completed not later than the conclusion of the first ninety
 10 (90) days of employment in or assignment of a volunteer to a
 11 position described in subsection (d). If a person described in this
 12 subsection has been the subject of a criminal history check (as
 13 described in IC 31-9-2-22.5) that was conducted not more than one
 14 (1) year before the date the license application is submitted to the
 15 department, a new criminal history check of that person is not
 16 required.

17 (i) An applicant or licensee may provisionally employ an
 18 individual or assign a volunteer described in subsection (d)(3) for
 19 whom a criminal history check is required during the period after
 20 the process of requesting fingerprint based criminal history
 21 background check information has been initiated by or on behalf
 22 of the applicant or licensee but before the determination is
 23 obtained by or communicated to the applicant or licensee. If the
 24 determination is not received within ninety (90) days after the
 25 effective date of hire or volunteer assignment, the employee or
 26 volunteer relationship must be terminated or suspended until a
 27 determination is received. An employee or volunteer whose
 28 determination has not yet been received may not have direct
 29 contact with a child who is or will be placed at a facility operated
 30 by the applicant or licensee unless the direct contact occurs only in
 31 the presence of a volunteer or employee of the applicant or licensee
 32 who has been the subject of a completed and approved criminal
 33 history check. In determining whether to provisionally hire or
 34 assign as a volunteer an individual described in subsection (d)(3),
 35 the applicant or licensee shall consider the following:

- 36 (1) The training time required by an employee or a volunteer.
- 37 (2) The safety and security of the children under the
- 38 supervision of the applicant or licensee.
- 39 (3) The safety and security of the other staff and volunteers
- 40 working under the supervision of the applicant or licensee.
- 41 (4) The staffing concerns of the applicant or licensee.
- 42 (5) Any other factor relating to the safety and security of the
- 43 applicant's or licensee's operations.

44 (j) The department shall, at the applicant's request, inform the
 45 applicant as to whether the department has or does not have a
 46 record of the person who is the subject of a criminal history
 47 background check and whether the department has identified the
 48 person as an alleged perpetrator of abuse or neglect. The
 49 department may not provide to the applicant any details or
 50 personally identifying information contained in any child
 51 protective services investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

(f) An applicant is required to conduct a criminal history check required under subsection (e)(1) only one (1) time for each employee or volunteer.

(g) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

SECTION 57. IC 31-27-5-6, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, of or the director or manager of a facility where children will be placed by the applicant, for any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that the applicant previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection ~~(a)(2)~~, (a) or (b), if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of, **or a determination of child abuse or neglect by,** an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of, **or determination of child abuse or neglect by,** the former employee or former volunteer does not ~~require~~ **constitute a sufficient basis for the denial of a license application.**

(e) The department may adopt rules to implement this section.

SECTION 58. IC 31-27-5-18, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department, upon request, the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the group home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the group home.

(5) The parent, guardian, or custodian of the child at the group home.

(6) A citizen review panel established under IC 31-25-2-20.4.

SECTION 59. IC 31-27-5-31, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or the director or manager of a facility where children will be placed by the licensee,~~ for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 60. IC 31-27-6-2, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) An applicant must apply for a child placing agency license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) The applicant ~~shall~~ **must** submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) **The department on behalf of an applicant, or, at the discretion of the department,** an applicant, shall ~~(+)~~ conduct a criminal history check of **the following:**

~~(A)~~ (1) Each individual who is an applicant. ~~and~~

~~(B)~~ (2) The director or manager of a facility where children will be placed. ~~and~~

~~(2)~~ submit to the department the result of each criminal history check conducted under this subsection:

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

~~(e) An~~ **If the applicant conducts a criminal history check under subsection (d), the applicant shall: do the following:**

~~(+)~~ Conduct a criminal history check of the applicant's:

~~(A)~~ employees; and

~~(B)~~ volunteers;

who have or will have direct contact; on a regular and continuing basis; with children who are or will be under the direct supervision of the applicant.

~~(2)~~ **(1) maintain records of each the information it receives concerning each individual who is the subject of a criminal history check; and**

(2) submit to the department a copy of the information it

receives concerning each person described in subsection (d)(1) through (d)(3).

(f) An applicant is required to conduct a criminal history check required under subsection (c)(1) only one (1) time for each employee or volunteer.

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history background check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer. However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history background check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(i) An applicant or a licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history background check is required during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received within ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or a volunteer whose

determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or an employee of the applicant or licensee who has been the subject of a completed and approved criminal history background check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

~~(g)~~ (j) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 61. IC 31-27-6-3, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The following constitute sufficient grounds for denial of a license application:

- (1) A determination by the department of child abuse or neglect by:

- (A) the applicant;

- (B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

- (C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

- (2) A criminal conviction of the applicant, ~~an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or the director or manager of a facility where children will be placed by the licensee,~~ for any of the following:

- (A) A felony.

- (B) A misdemeanor related to the health and safety of a child.

1 **(C) A misdemeanor for operating a child caring institution,**
 2 **foster family home, group home, or child placing agency**
 3 **without a license under this article (or IC 12-17.4 before its**
 4 **repeal).**

5 **(D) A misdemeanor for operating a child care center or**
 6 **child care home without a license under IC 12-17.2.**

7 (3) A determination by the department that the applicant made
 8 false statements in the applicant's application for licensure.

9 (4) A determination by the department that the applicant made
 10 false statements in the records required by the department.

11 **(5) A determination by the department that the applicant**
 12 **previously operated a home or facility without a license**
 13 **required under any applicable provision of this article (or**
 14 **IC 12-17.4 before its repeal) or IC 12-17.2.**

15 (b) **An application for a license may also be denied if an**
 16 **employee or volunteer of the applicant who has direct contact on**
 17 **a regular and continuous basis with children who are under the**
 18 **direct supervision of the applicant has been convicted of any of the**
 19 **following:**

20 (1) **A felony described in IC 31-27-4-13(a).**

21 (2) **Any other felony or a misdemeanor relating to the health**
 22 **and safety of a child, unless the applicant is granted a waiver**
 23 **by the department to employ or assign the person as a**
 24 **volunteer in a position described in this subsection.**

25 (c) **In determining whether to grant a waiver under subsection**
 26 **(b), the department shall consider the following factors:**

27 (1) **The length of time that has passed since the disqualifying**
 28 **conviction.**

29 (2) **The severity, nature, and circumstances of the offense.**

30 (3) **Evidence of rehabilitation.**

31 (4) **The duties and qualifications required for the proposed**
 32 **employment positions or volunteer assignment.**

33 (d) **Notwithstanding subsection ~~(a)(2)~~, (a) or (b), if:**

34 (1) **a license application ~~is~~ could be denied due to a criminal**
 35 **conviction of, or a determination of child abuse or neglect by,**
 36 **an employee or a volunteer of the applicant; and**

37 (2) **the department determines that the employee or volunteer has**
 38 **been dismissed by the applicant;**

39 **the criminal conviction of, or determination of child abuse or neglect**
 40 **by, the former employee or former volunteer does not require**
 41 **constitute a sufficient basis for the denial of a license application.**

42 **(e) The department may adopt rules to implement this section.**

43 SECTION 62. IC 31-27-6-15, AS ADDED BY P.L.145-2006,
 44 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 45 [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) A licensee shall keep
 46 records required by the department regarding each child in the control
 47 and care of the licensee and shall report to the department upon request
 48 the facts the department requires with reference to children.

49 (b) The department shall keep records regarding children and facts
 50 learned about children and the children's parents or relatives
 51 confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child placing agency.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) A citizen review panel established under IC 31-25-2-20.4.

SECTION 63. IC 31-27-6-28, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, of or the director or manager of a facility where children will be placed by the licensee, for~~ any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by

the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 64. IC 31-32-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Any written notice of a hearing or other court proceeding in a child in need of services case under IC 31-34 or a delinquency case under IC 31-37 shall be given to:

(1) a party in the manner provided by Rule 5 of the Indiana Rules of Trial Procedure; or

(2) an individual who is not a party by:

(A) personal delivery to the individual; or

(B) mail as provided in Rule 5(B)(2) of the Indiana Rules of Trial Procedure.

(b) Notice by mail must be deposited in the United States mail not less than five (5) calendar days (excluding Saturdays, Sundays, and national legal holidays recognized by the federal government) before the date of the scheduled hearing or proceeding.

(c) Written notice may be given by either:

(1) a copy of a court order or docket entry; or

(2) a letter addressed to the individual required to be notified; that states the date, time, and purpose of the hearing or proceeding.

(d) Written notice is not required if verbal notice of the date, time, place, and purpose of the hearing or proceeding is given by the court at an earlier hearing or proceeding at which the individual to be notified is present.

(e) Written notice is not required if:

(1) the hearing or proceeding is scheduled to be held at a time within forty eight (48) hours (excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees) after the court sets the time for the hearing or

proceeding; and

(2) the individual responsible for giving the notice under this section:

(A) provides verbal notice of the date, time, place, and purpose of the hearing or proceeding directly to the person required to be notified; and

(B) verifies by affidavit or testimony at the hearing that verbal notice was given as required under this subsection.

(f) Except as provided in subsection (d):

(1) the department is responsible for giving all notices of a hearing or proceeding in a child in need of services case under IC 31-34; and

(2) the prosecuting attorney or the probation department of the juvenile court is responsible for giving all notices of a hearing or proceeding in a delinquency case under IC 31-37.

SECTION 65. IC 31-33-8-13, AS AMENDED BY P.L.234-2005, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. Whenever

(1) an arrest relating to child abuse or neglect is made; the law enforcement agency that makes the arrest;

(2) criminal charges relating to child abuse or neglect are filed; the court in which the charges are filed;

(3) a child in need of services determination is made; the department;

(4) a court approves a program of informal adjustment under IC 31-34-8 arising out of a child abuse or neglect report; the department; or

(5) a person who is accused of child abuse or neglect:

(A) enters into a services referral agreement; and

(B) fails to substantially comply with the terms of the services referral agreement;

under IC 31-33-13, the department;

shall transmit to the registry, not more than five (5) working days after the circumstances described by subdivisions (1) through (5) occur; the relevant a court finds that a child is a child in need of services on the basis of a child abuse or neglect report classified as substantiated under section 12 of this chapter, the department shall enter into the child protection index established under IC 31-33-26-2 identifiable information concerning the court's judgment.

SECTION 66. IC 31-33-18-2, AS AMENDED BY P.L.146-2006, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is

1 investigating a report of a child who may be a victim of child
2 abuse or neglect.

3 (4) A physician who has before the physician a child whom the
4 physician reasonably suspects may be a victim of child abuse or
5 neglect.

6 (5) An individual legally authorized to place a child in protective
7 custody if:

8 (A) the individual has before the individual a child whom the
9 individual reasonably suspects may be a victim of abuse or
10 neglect; and

11 (B) the individual requires the information in the report or
12 record to determine whether to place the child in protective
13 custody.

14 (6) An agency having the legal responsibility or authorization to
15 care for, treat, or supervise a child who is the subject of a report
16 or record or a parent, guardian, custodian, or other person who is
17 responsible for the child's welfare.

18 (7) An individual named in the report or record who is alleged to
19 be abused or neglected or, if the individual named in the report is
20 a child or is otherwise incompetent, the individual's guardian ad
21 litem or the individual's court appointed special advocate, or both.

22 (8) Each parent, guardian, custodian, or other person responsible
23 for the welfare of a child named in a report or record and an
24 attorney of the person described under this subdivision, with
25 protection for the identity of reporters and other appropriate
26 individuals.

27 (9) A court, for redaction of the record in accordance with section
28 1.5 of this chapter, or upon the court's finding that access to the
29 records may be necessary for determination of an issue before the
30 court. However, except for disclosure of a redacted record in
31 accordance with section 1.5 of this chapter, access is limited to in
32 camera inspection unless the court determines that public
33 disclosure of the information contained in the records is necessary
34 for the resolution of an issue then pending before the court.

35 (10) A grand jury upon the grand jury's determination that access
36 to the records is necessary in the conduct of the grand jury's
37 official business.

38 (11) An appropriate state or local official responsible for child
39 protection services or legislation carrying out the official's official
40 functions.

41 (12) A foster care review board established by a juvenile court
42 under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the
43 court's determination that access to the records is necessary to
44 enable the foster care review board to carry out the board's
45 purpose under IC 31-34-21.

46 (13) The community child protection team appointed under
47 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to
48 enable the team to carry out the team's purpose under IC 31-33-3.

49 (14) A person about whom a report has been made, with
50 protection for the identity of:

51 (A) any person reporting known or suspected child abuse or

- 1 neglect; and
- 2 (B) any other person if the person or agency making the
- 3 information available finds that disclosure of the information
- 4 would be likely to endanger the life or safety of the person.
- 5 (15) An employee of the department, a caseworker, or a juvenile
- 6 probation officer conducting a criminal history check under
- 7 IC 31-26-5, IC 31-34, or IC 31-37 to determine the
- 8 appropriateness of an out-of-home placement for a:
- 9 (A) child at imminent risk of placement;
- 10 (B) child in need of services; or
- 11 (C) delinquent child.
- 12 The results of a criminal history check conducted under this
- 13 subdivision must be disclosed to a court determining the
- 14 placement of a child described in clauses (A) through (C).
- 15 (16) A local child fatality review team established under
- 16 IC 31-33-24-6.
- 17 (17) The statewide child fatality review committee established by
- 18 IC 31-33-25-6.
- 19 (18) The department.
- 20 (19) The division of family resources, if the investigation report:
- 21 (A) is classified as substantiated; and
- 22 (B) concerns:
- 23 (i) an applicant for a license to operate;
- 24 (ii) a person licensed to operate;
- 25 (iii) an employee of; or
- 26 (iv) a volunteer providing services at;
- 27 a child care center licensed under IC 12-17.2-4 or a child care
- 28 home licensed under IC 12-17.2-5.
- 29 **(20) A citizen review panel established under IC 31-25-2-20.4.**
- 30 **SECTION 67. IC 31-33-26 IS ADDED TO THE INDIANA CODE**
- 31 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
- 32 **JULY 1, 2007]:**
- 33 **Chapter 26. Child Protection Index**
- 34 **Sec. 1. (a) As used in this chapter, "child care provider" means**
- 35 **a person who:**
- 36 **(1) provides child care (as defined in IC 12-7-2-28.2)**
- 37 **regardless of whether the person is required to be licensed or**
- 38 **registered under IC 12-17.2; or**
- 39 **(2) is a child caring institution, a foster family home, a group**
- 40 **home, or a child placing agency that is licensed or required to**
- 41 **be licensed under IC 31-27.**
- 42 **(b) As used in this chapter, "index" refers to the child protection**
- 43 **index established under section 2 of this chapter.**
- 44 **Sec. 2. The department shall establish and maintain a**
- 45 **centralized, computerized child protection index to organize and**
- 46 **access data regarding substantiated reports of child abuse and**
- 47 **neglect that the department receives from throughout Indiana**
- 48 **under this article.**
- 49 **Sec. 3. In addition to the equipment needed to establish, operate,**
- 50 **and maintain the index, the index must include the following**
- 51 **components:**

1 (1) One (1) computer to be purchased for every two (2) child
2 welfare caseworkers.

3 (2) Automated risk assessment in which a child welfare
4 caseworker or supervisor is able to review a substantiated
5 child abuse or neglect case to determine prior case history
6 during the intake, investigation, assessment, and case
7 management processes.

8 (3) The capability to allow supervisors to monitor child abuse
9 and neglect cases and reports relating to the cases.

10 (4) The automated production of standard reports to enable
11 the automated compilation of information gathered on forms
12 used by child welfare caseworkers to report the information
13 and results of child abuse and neglect cases. The index must
14 also provide for the automation of other data for planning
15 and evaluation as determined by the department.

16 (5) The capability of same day notification and transfer of
17 statistical information to the department regarding new and
18 closed child abuse and neglect cases.

19 (6) The enabling of child welfare supervisors to review a child
20 abuse or neglect determination at any point after the
21 investigation is initially classified as substantiated abuse or
22 neglect, to confirm the status of the case, and to allow for the
23 consolidated management of cases.

24 (7) The capability for adjusting the index's programming at
25 a later date if additional reporting requirements occur.

26 (8) A word processing capability to allow case notes to be
27 recorded with each substantiated child abuse and neglect case.

28 Sec. 4. (a) In addition to the components described in section 3
29 of this chapter, the index must have the capability to maintain a
30 case history file.

31 (b) Whenever a person enters a new child abuse or neglect
32 report into the index, the index must have the capability to
33 automatically search for reports that match the name of the:

34 (1) perpetrator;

35 (2) victim; or

36 (3) person who is legally responsible for the victim's welfare;
37 with the persons named in the new report as described in this
38 chapter.

39 (c) If the index identifies a previous, substantiated report, the
40 index must have the capability to transfer the report to the county
41 where the new report originated not later than twenty-four (24)
42 hours after receipt of the new report. If a previous, matching
43 report is located, a case history extract must be made available to
44 the assigned caseworker.

45 Sec. 5. (a) Subject to the accessibility to files provided in
46 subsection (b), at least ten (10) levels of security for confidentiality
47 in the index must be maintained.

48 (b) The index must have a comprehensive system of limited
49 access to information as follows:

50 (1) The index must be accessed only by the entry of an
51 operator identification number and a password.

1 **(2) A child welfare caseworker must be allowed to access only:**

2 **(A) cases that are assigned to the caseworker; and**

3 **(B) other cases or investigations that involve:**

4 **(i) a family member of a child; or**

5 **(ii) a child;**

6 **who is the subject of a case described in clause (A).**

7 **(3) A child welfare supervisor may access only the following:**

8 **(A) Cases assigned to the supervisor.**

9 **(B) Cases assigned to a caseworker who reports to the**
 10 **supervisor.**

11 **(C) Other cases or investigations that involve:**

12 **(i) a family member of a child; or**

13 **(ii) a child;**

14 **who is the subject of a case described in clause (A) or (B).**

15 **(D) Cases that are unassigned.**

16 **(4) To preserve confidentiality in the workplace, child welfare**
 17 **managers, as designated by the department, may access any**
 18 **case, except restricted cases involving:**

19 **(A) a state employee; or**

20 **(B) the immediate family member of a state employee;**
 21 **who has access to the index. Access to restricted information**
 22 **under this subdivision may be obtained only if an additional**
 23 **level of security is implemented.**

24 **(5) Access to records of authorized users, including**
 25 **passwords, is restricted to:**

26 **(A) users designated by the department as administrators;**
 27 **and**

28 **(B) the administrator's level of access as determined by the**
 29 **department.**

30 **(6) Ancillary programs that may be designed for the index**
 31 **may not be executed in a manner that would circumvent the**
 32 **index's log-on security measures.**

33 **(7) Certain index functions must be accessible only to index**
 34 **operators with specified levels of authorization as determined**
 35 **by the department.**

36 **(8) Files containing passwords must be encrypted.**

37 **(9) There must be two (2) additional levels of security for**
 38 **confidentiality as determined by the department.**

39 **Sec. 6. The department shall store data regarding child abuse or**
 40 **neglect reports in a manner that allows the data to be retrieved**
 41 **based on the following, if known:**

42 **(1) The child's name.**

43 **(2) The child's date of birth.**

44 **(3) The alleged perpetrator's name.**

45 **(4) The child's mother's name.**

46 **(5) The child's father's name.**

47 **(6) The name of a sibling of the child.**

48 **(7) The name of the child's guardian or custodian if**
 49 **applicable.**

50 **Sec. 7. The department may adopt rules under IC 4-22-2 to**
 51 **ensure that the confidentiality of and access to reports of child**

abuse or neglect are maintained as provided in this chapter.

Sec. 8. (a) This section does not apply to substantiated reports if a court has determined that a child is a child in need of services based on:

(1) a report of child abuse or neglect that names the perpetrator as the individual who committed the child abuse or neglect; or

(2) facts presented to the court at a hearing in a child in need of services case commenced under IC 31-34 that are consistent with the facts and conclusions stated in the report, if the department approved the substantiated report after the court's determination.

(b) Not later than thirty (30) days after the department enters a substantiated child abuse or neglect report into the index, the department shall notify:

(1) the parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect; and

(2) any person identified as the perpetrator, if other than the child's parent, guardian, or custodian;

that the department has entered the report into the index.

(c) The department shall state the following in a notice to the perpetrator of a substantiated report under subsection (b):

(1) The report has been classified as substantiated.

(2) The perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the perpetrator does not agree with the classification of the report unless a court is in the process of making a determination.

(3) The perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the department not more than thirty (30) days after the notice is served on the perpetrator as provided in IC 4-21.5-3-1(b). Time shall be computed as provided in IC 4-21.5-3-2.

(d) If the perpetrator fails to request an administrative hearing within the time specified in subsection (c)(3), the perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.

Sec. 9. (a) Except as provided in sections 11 and 12 of this chapter, the department shall conduct an administrative hearing upon a request made under section 8 of this chapter.

(b) At the administrative hearing, the department must prove by a preponderance of credible evidence that the perpetrator is responsible for the child's abuse or neglect.

(c) During an administrative hearing under this section, the administrative hearing officer shall consider hearsay evidence to be competent evidence and may not exclude hearsay based on the technical rules of evidence. However, a determination may not be

1 based solely on evidence that is hearsay.

2 (d) If the department fails to carry the burden of proof under
3 subsection (b), the department shall amend or expunge the report
4 as ordered by the administrative hearing officer within the period
5 provided under section 15 of this chapter.

6 (e) The department shall maintain the confidentiality of an
7 abuse or a neglect report during the administrative process.

8 (f) The administrative hearing shall be closed.

9 (g) The administrative files shall be closed and not disclosed to
10 the public.

11 Sec. 10. The department shall administer the index in a manner
12 that enables the department to do the following:

13 (1) Immediately identify and locate prior reports of child
14 abuse or neglect through the use of the department's:

15 (A) computerized tracking system; and

16 (B) automated risk assessment system.

17 (2) Track steps in the investigative process to ensure
18 compliance with all requirements for a report of child abuse
19 or neglect.

20 (3) Maintain and produce aggregate statistical reports
21 monitoring patterns of child abuse and neglect that the
22 department shall make available to the public upon request.

23 (4) Serve as a resource for the evaluation, management, and
24 planning of preventive and remedial services to children who
25 have been subject to child abuse or neglect.

26 Sec. 11. (a) If a court having jurisdiction over a child in need of
27 services case under IC 31-34 has determined or is anticipated to
28 determine whether:

29 (1) a report of suspected child abuse or neglect is properly
30 substantiated;

31 (2) child abuse or neglect occurred; or

32 (3) any person was a perpetrator of child abuse or neglect;

33 the determination of the court is binding.

34 (b) The administrative hearing under this chapter shall be
35 stayed pending an anticipated action by the court.

36 (c) A person named as a perpetrator in a report of suspected
37 child abuse or neglect is not entitled to an administrative hearing
38 under this chapter if a court has determined that:

39 (1) the alleged child abuse or neglect did not occur; or

40 (2) the person was not a perpetrator of the alleged child abuse
41 or neglect.

42 Sec. 12. (a) If criminal charges are filed against a perpetrator
43 based on the same facts and circumstances on which the
44 department classified a child abuse or neglect report as
45 substantiated, any administrative hearing requested by the
46 perpetrator under this chapter shall be stayed pending disposition
47 of the criminal charges.

48 (b) If the criminal charges result in the conviction of the
49 perpetrator and the facts that provided a necessary element for the
50 conviction also provided the basis for the substantiated report
51 under IC 31-33-8-12, the person named in the report as a

perpetrator of child abuse or neglect is not entitled to an administrative hearing under this chapter.

Sec. 13. The department shall adopt rules under IC 4-22-2:

- (1) to provide procedures not inconsistent with section 9 of this chapter by which any person identified as a perpetrator in a substantiated report of child abuse or neglect that is entered into the child protection index may request and obtain an administrative hearing as provided in this chapter;
- (2) to establish procedures for the conduct of the administrative hearing; and
- (3) to establish provisions for administrative review by the department of a proposed or approved substantiated report, before or after an administrative hearing is available or conducted.

Sec. 14. The department shall immediately amend or expunge from the index a substantiated report containing an inaccuracy arising from an administrative or a clerical error.

Sec. 15. (a) The department shall expunge a substantiated report contained within the index as follows:

- (1) Not later than ten (10) working days after any of the following occurs:

- (A) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

- (B) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

- (C) A court having juvenile jurisdiction enters an order for expungement of the report under IC 31-33-7-6.5.

- (2) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.

(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:

- (1) a court having jurisdiction over a child in need of services proceeding; or

- (2) an administrative hearing officer under this chapter; finds that the person was not a perpetrator of the child abuse or neglect that occurred.

(c) If subsection (a) does not apply, the department shall expunge the substantiated report not later than the date on which any child who is named in the report as a victim of child abuse or neglect becomes twenty-four (24) years of age.

(d) The department shall expunge an indicated report contained in the index at the time specified in IC 31-33-8-12.

(e) The department shall expunge an unsubstantiated report contained in the index not later than six (6) months after the date the report was entered into the index.

Sec. 16. (a) A person or an organization may have access to information contained in the index as follows:

1 (1) A law enforcement agency may have access to a
2 substantiated report for purposes of investigating or
3 criminally prosecuting a person identified as a perpetrator of
4 child abuse or neglect.

5 (2) A child care provider, upon submitting a written consent
6 for release of information signed by an individual who:

7 (A) is employed by or who has applied for employment
8 with the child care provider;

9 (B) has volunteered to provide services to the child care
10 provider in a capacity that would place the individual in
11 direct contact, on a regular and continuous basis, with
12 children who are or will be under the direct supervision of
13 the child care provider; or

14 (C) is at least eighteen (18) years of age and resides in the
15 home of the child care provider;

16 may have access to any information relating to a
17 substantiated report of child abuse or neglect that names the
18 employee, applicant, volunteer, or household resident as the
19 perpetrator of child abuse or neglect.

20 (3) A person may have access to any information that is
21 contained in the index pertaining to the person, with
22 protection for the identity of:

23 (A) a person who reports the child abuse or neglect; and

24 (B) any other appropriate person.

25 (4) A person or an agency to whom child abuse and neglect
26 reports are available under IC 31-33-18 may have access to
27 information contained in the index.

28 (5) Representatives of the division of family resources
29 designated by the director of the division may have access to
30 and use any information relating to a substantiated report of
31 child abuse or neglect that would constitute a basis for denial
32 or revocation of a license for a child care center under
33 IC 12-17.2-4 or a child care home under IC 12-17.2-5.

34 (6) Representatives of the department designated by the
35 director may have access to and use any information relating
36 to a substantiated report of child abuse or neglect that would
37 constitute a basis for denial or revocation of a license for a
38 child caring institution, foster family home, group home, or
39 child placing agency under IC 31-27.

40 (7) Any representative of the department, a court having
41 juvenile jurisdiction, and any party in a case under IC 31-34
42 or IC 31-37 may have access to and use any information
43 relating to a substantiated report of child abuse or neglect in
44 connection with a determination of an appropriate out of
45 home placement for a child under any applicable provision of
46 IC 31-34 or IC 31-37 that requires a criminal history check
47 (as described in IC 31-9-2-22.5) concerning any person.

48 (8) The department shall provide any information contained
49 in a substantiated report of child abuse or neglect that is
50 included in the index to an authorized agency of another state
51 that requests information concerning a prospective foster or

1 adoptive parent, or any other adult living in the home of a
 2 prospective foster or adoptive parent, in accordance with 42
 3 U.S.C. 671(a)(20)(C).

4 (9) The department shall transmit or provide to a national
 5 index of substantiated cases of child abuse or neglect
 6 established in accordance with 42 U.S.C. 16990:

7 (A) a copy of any substantiated report and related
 8 information entered into the index; and

9 (B) information concerning expungement or amendment
 10 of any substantiated report as provided in section 14 or 15
 11 of this chapter.

12 (10) To determine the eligibility of a child care provider to
 13 receive a voucher payment (as defined in IC 12-17.2-3.5-3),
 14 the division of family resources may use information
 15 contained in the index concerning whether a child has been
 16 found by a court to be a child in need of services based on a
 17 report of child abuse or neglect naming an individual
 18 described in IC 12-17.2-3.5-4.1(a) as a perpetrator.

19 (b) Except as provided in this section or in rules adopted under
 20 subsection (c), the department may not disclose information used
 21 in connection with the department's activities under this section.

22 (c) The department shall adopt rules under IC 4-22-2 relating
 23 to the procedure for disclosure of information described in this
 24 section.

25 **Sec. 17. (a) If a court grants a name change under IC 34-28-2**
 26 **(or IC 34-4-6 before its repeal) to a person:**

27 (1) against whom an allegation of child abuse or neglect has
 28 been substantiated; and

29 (2) whose name is maintained within the index in accordance
 30 with this chapter;

31 the person must notify the department regarding the name change
 32 not more than ten (10) business days after the court enters a decree
 33 changing the person's name.

34 (b) The notice under subsection (a) must include a copy of the
 35 decree of the court that changes the name of the person, certified
 36 under the seal of the clerk of court.

37 **Sec. 18. On July 1, 2007, all substantiated reports and other**
 38 **documents relating to child abuse or neglect cases contained in the**
 39 **child abuse registry under IC 31-33-17 (before its repeal) and the**
 40 **automated child protection system under IC 31-33-20 (before its**
 41 **repeal) shall be transferred to and be included in the child**
 42 **protection index. The department shall maintain and administer all**
 43 **reports and documents transferred to and included in the child**
 44 **protection index as provided in this chapter.**

45 **SECTION 68. IC 31-34-5-1 IS AMENDED TO READ AS**
 46 **FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) If a child taken**
 47 **into custody under IC 31-34-2 is not released, a detention hearing shall**
 48 **be held not later than forty-eight (48) hours, excluding Saturdays,**
 49 **Sundays, and legal holidays; any day on which a legal holiday is**
 50 **observed for state employees as provided under IC 1-1-9, after the**
 51 **child is taken into custody. If the detention hearing is not held, the child**

shall be released. Notice of the time, place, and purpose of the detention hearing shall be given to the following:

(1) The child.

(2) The child's parent, guardian, or custodian if the person can be located.

(3) Each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-34-4.

(b) The court shall:

(1) provide a person who is required to be notified under subsection (a)(2) or (a)(3) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

SECTION 69. IC 31-34-5-1.5, AS AMENDED BY P.L.145-2006, SECTION 292, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5. (a) This section applies to a child taken into custody under IC 31-34-2.5.

(b) The juvenile court shall hold a detention hearing after an emergency medical services provider takes custody of a child under IC 31-34-2.5. The court shall hold the detention hearing not later than forty-eight (48) hours after the emergency medical services provider takes the child into custody, excluding Saturdays, Sundays, and ~~legal holidays~~. **any day on which a legal holiday is observed for state employees as provided under IC 1-1-9.**

(c) The department may notify the emergency medical services provider that has taken emergency custody of a child under IC 31-34-2.5 of the detention hearing. The emergency medical services provider may be heard at the detention hearing.

(d) The department shall notify each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5 of the detention hearing. The court shall:

(1) provide a person who is required to be notified under this subsection an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

SECTION 70. IC 31-34-10-2, AS AMENDED BY P.L.129-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

(1) The child.

(2) The child's parent, guardian, custodian, guardian ad litem, or court appointed special advocate.

(3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

(d) If the child has been detained following a detention hearing under IC 31-34-5, an initial hearing shall be scheduled and held not

1 later than seven (7) days after the date of the detention order,
 2 excluding Saturdays, Sundays, and any day on which a legal
 3 holiday is observed for state employees as provided under IC 1-1-9.

4 (e) If the initial hearing is not scheduled and held within the
 5 specified time as described in this section, the child shall be
 6 released to the child's parent, guardian, or custodian.

7 (f) The court may schedule an additional initial hearing on the
 8 child in need of services petition if necessary to comply with the
 9 procedures and requirements of this chapter with respect to any
 10 person to whom a summons has been issued under this section.

11 (g) An additional initial hearing on the child in need of services
 12 petition shall be held not more than thirty (30) calendar days after
 13 the date of the first initial hearing on the child in need of services
 14 petition, unless the court has:

15 (1) granted an extension of time for extraordinary
 16 circumstances; and

17 (2) stated the extraordinary circumstance in a written court
 18 order.

19 (h) The department shall provide notice of the date, time, place,
 20 and purpose of the initial hearing and any additional initial hearing
 21 scheduled under this section to each foster parent or other
 22 caretaker with whom the child has been temporarily placed under
 23 IC 31-34-2.5, IC 31-34-4, or IC 31-34-5. The court shall:

24 (1) provide a:

25 (A) person for whom a summons is required to be issued
 26 under subsection (b); and

27 (B) person who is required to be notified under this
 28 subsection;

29 an opportunity to be heard; and

30 (2) allow a person described in subdivision (1) to make
 31 recommendations to the court;

32 at the initial hearing.

33 SECTION 71. IC 31-34-11-1, AS AMENDED BY P.L.146-2006,
 34 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), unless
 36 the allegations of a petition have been admitted, the juvenile court shall
 37 complete a factfinding hearing not more than sixty (60) days after a
 38 petition alleging that a child is a child in need of services is filed in
 39 accordance with IC 31-34-9.

40 (b) The juvenile court may extend the time to complete a factfinding
 41 hearing, as described in subsection (a), for an additional sixty (60) days
 42 if all parties in the action consent to the additional time.

43 (c) If the factfinding hearing is not held immediately after the
 44 initial hearing as provided under IC 31-34-10-9, the department
 45 shall provide notice of any factfinding hearing to each foster parent
 46 or other caretaker with whom the child has been placed for
 47 temporary care. The court shall provide a person who is required
 48 to be notified under this subsection an opportunity to be heard at
 49 the factfinding hearing.

50 SECTION 72. IC 31-34-19-1.3 IS ADDED TO THE INDIANA
 51 CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2007]: **Sec. 1.3. (a) The department shall provide notice of the date, time, place, and purpose of the dispositional hearing under this chapter to each:**

(1) party or person for whom a summons is required to be issued under IC 31-34-10-2; and

(2) foster parent or other caretaker with whom the child is placed for temporary care;

at the time the dispositional hearing is scheduled.

(b) The court shall:

(1) provide a person required to be notified under subsection

(a) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the dispositional hearing.

SECTION 73. IC 31-34-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Any predispositional report may be admitted into evidence to the extent that the report contains evidence of probative value even if the report would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The:

(1) child;

(2) child's parent, guardian, or custodian; ~~and~~

(3) person representing the interests of the state; **and**

(4) foster parent or other caretaker who is entitled to notice of the dispositional hearing under section 1.3 of this chapter;

shall be given a fair opportunity to controvert any part of the report admitted into evidence.

SECTION 74. IC 31-34-21-7, AS AMENDED BY P.L.145-2006, SECTION 322, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The court shall hold a permanency hearing:

(1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;

(2) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a child in need of services was removed from the child's parent, guardian, or custodian;

whichever comes first; or

(3) more often if ordered by the juvenile court.

(b) The court shall:

(1) make the determination and findings required by section 5 of this chapter;

(2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;

(3) consider recommendations of persons listed under section 4 of this chapter, before approving a permanency plan under subdivision ~~(4)~~; **(5)**;

(4) consult with the child in person, or through an interview with or written statement or report submitted by:

(A) a guardian ad litem or court appointed special advocate for the child;

(B) a case manager; or

(C) the person with whom the child is living and who has primary responsibility for the care and supervision of the child;

in an age appropriate manner as determined by the court, regarding the proposed permanency plan;

~~(4)~~ **(5) consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;**

~~(5)~~ **(6) determine whether an existing permanency plan must be modified; and**

~~(6)~~ **(7) examine procedural safeguards used by the department to protect parental rights.**

(c) If the child is at least sixteen (16) years of age and the proposed permanency plan provides for the transition of the child from foster care to independent living, the court shall:

(1) require the department to send notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter; and

(2) provide to the child an opportunity to be heard and to make recommendations to the court, in accordance with section 4(c) of this chapter.

~~(c)~~ **(d) There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the department does not sustain its burden for continued jurisdiction, the court shall:**

(1) direct the department to establish a permanency plan within thirty (30) days; or

(2) discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

SECTION 75. IC 31-34-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Before a case review under IC 31-34-21-2 or hearing under IC 31-34-21-7, the probation department or the ~~county office of family and children~~ **department** shall prepare a report on the progress made in implementing the dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, or reuniting

1 the family.

2 (b) Before preparing the report required by subsection (a), the
3 probation department or the ~~county office of family and children~~
4 **department** shall consult a foster parent of the child about the child's
5 progress made while in the foster parent's care.

6 (c) If modification of the dispositional decree is recommended, the
7 probation department or the ~~county office of family and children~~
8 **department** shall prepare a modification report containing the
9 information required by IC 31-34-18 and request a formal court
10 hearing.

11 SECTION 76. IC 31-34-22-2, AS AMENDED BY P.L.146-2006,
12 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2007]: Sec. 2. (a) Except as provided in subsection (b), a
14 report prepared by the state:

15 (1) for the juvenile court's review of the court's dispositional
16 decree; or

17 (2) prepared for use at a periodic case review under IC 31-34-21-2
18 or hearing under IC 31-34-21-7;

19 shall be made available to the child, and the child's parent, foster
20 parent, guardian, guardian ad litem, court appointed special advocate,
21 ~~or custodian, or any other person who is entitled to receive notice of~~
22 **the periodic case review or permanency hearing under**
23 **IC 31-34-21-4** within a reasonable time after the report's presentation
24 to the court or before the hearing.

25 (b) If the court determines on the record that the report contains
26 information that should not be released to ~~the child or the child's~~
27 ~~parent, foster parent, guardian, or custodian, any person entitled to~~
28 **receive a report under subsection (a)**, the court is not required to
29 make the report available to the person as required in subsection (a).
30 However, the court shall provide a copy of the report to the following:

31 (1) Each attorney or guardian ad litem representing the child.

32 (2) Each attorney representing the child's parent, guardian, or
33 custodian.

34 (3) Each court appointed special advocate.

35 (c) The court may also provide a factual summary of the report to
36 the child or the child's parent, foster parent, guardian, or custodian.

37 (d) ~~In addition to the requirements of subsection (a), any report~~
38 ~~prepared by the state for the juvenile court's review shall also be made~~
39 ~~available to any court appointed special advocate within the same time~~
40 ~~period and in the same manner as required in the case of a parent under~~
41 ~~subsection (a). However, if under subsection (a) the court determines~~
42 ~~on the record that the report contains information that should not be~~
43 ~~released to the parent, the court shall still provide a copy of the report~~
44 ~~to any court appointed special advocate.~~

45 SECTION 77. IC 31-34-22-3 IS AMENDED TO READ AS
46 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may
47 be admitted into evidence to the extent that the report contains
48 evidence of probative value even if the evidence would otherwise be
49 excluded.

50 (b) If a report contains information that should not be released to the
51 child or the child's parent, guardian, ~~or custodian, or any other person~~

1 **who is entitled to receive a report under section 2 of this chapter,**
 2 a factual summary of the report may be admitted.

3 (c) **The following shall be given a fair opportunity to controvert**
 4 **any part of the report admitted into evidence:**

5 (1) **The child.**

6 (2) **The child's parent, guardian, or custodian. and**

7 (3) **The person representing the interests of the state.**

8 (4) **Any other person who is entitled to receive a report under**
 9 **section 2 of this chapter.**

10 shall be given a fair opportunity to controvert any part of the report
 11 admitted into evidence.

12 SECTION 78. IC 31-34-23-4, AS AMENDED BY P.L.129-2005,
 13 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2007]: Sec. 4. If a hearing is required, IC 31-34-18 governs
 15 the preparation and use of a modification report. The report shall be
 16 prepared if the state or any person other than the child or the child's
 17 parent, guardian, guardian ad litem, court appointed special advocate,
 18 or custodian is requesting the modification. **Notice of any hearing**
 19 **under this chapter shall be given in accordance with**
 20 **IC 31-34-19-1.3.**

21 SECTION 79. IC 31-34-24-10 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The team may
 23 adopt as its plan an existing plan for provision of family preservation
 24 services, as defined in ~~IC 12-7-2-82.3~~, **IC 31-9-2-44.8**, that:

25 (1) is in effect in the county;

26 (2) includes services for a child less than eighteen (18) years of
 27 age who reasonably may be expected to face out of home
 28 placement under IC 31-34 or IC 31-37 as a result of:

29 (A) dependency, abuse, or neglect;

30 (B) emotional disturbance; or

31 (C) delinquency adjudication; and

32 (3) addresses all of the objectives described in this section.

33 SECTION 80. IC 31-34-24-18, AS AMENDED BY P.L.234-2005,
 34 SECTION 185, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2007]: Sec. 18. The

36 ~~(1) juvenile court, in implementing a program of informal~~
 37 ~~adjustment for a child under IC 31-34-8, and~~

38 ~~(2) department of child services, in proposing a voluntary services~~
 39 ~~referral agreement for the benefit of a child under IC 31-33-13;~~

40 shall consider and use to the extent feasible any available services
 41 described in ~~an early intervention~~ a plan approved under this chapter.

42 SECTION 81. IC 31-37-6-3 IS AMENDED TO READ AS
 43 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Notice of the
 44 time, place, and purpose of a detention hearing shall be given to:

45 (1) the child; ~~and~~

46 (2) the child's parent, guardian, or custodian if the person can be
 47 located; ~~and~~

48 (3) **each foster parent or other caretaker with whom the child**
 49 **has been placed for temporary care under IC 31-37-5.**

50 (b) **The court shall:**

51 (1) **provide a person who is required to be notified under**

1 subsection (a)(2) or (a)(3) an opportunity to be heard; and
 2 (2) allow a person described in subdivision (1) to make
 3 recommendations to the court;
 4 **at the detention hearing.**

5 SECTION 82. IC 31-37-12-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The juvenile
 7 court shall hold an initial hearing on each petition.

8 (b) The juvenile court shall set a time for the initial hearing. A
 9 summons shall be issued for the following:

10 (1) The child.

11 (2) The child's parent, guardian, custodian, or guardian ad litem.

12 (3) Any other person necessary for the proceedings.

13 (c) A copy of the petition must accompany each summons. The
 14 clerk shall issue the summons under Rule 4 of the Indiana Rules of
 15 Trial Procedure.

16 **(d) The prosecuting attorney or the probation department of the**
 17 **juvenile court shall provide notice of the time, place, and purpose**
 18 **of the initial hearing scheduled or held under this section to each**
 19 **foster parent or other caretaker with whom the child has been**
 20 **placed for temporary care under IC 31-37-5 or IC 31-37-7. The**
 21 **court shall:**

22 (1) provide a:

23 (A) person for whom a summons is required to be issued
 24 under subsection (b); and

25 (B) person required to be notified under this subsection;
 26 an opportunity to be heard; and

27 (2) allow a person described in subdivision (1) to make
 28 recommendations to the court;

29 **at the initial hearing.**

30 SECTION 83. IC 31-37-13-1 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Unless the
 32 allegations of a petition have been admitted, the juvenile court shall
 33 hold a factfinding hearing.

34 **(b) If the factfinding hearing is not held immediately after the**
 35 **initial hearing as provided under IC 31-37-12-9, the prosecuting**
 36 **attorney or probation department of the juvenile court shall**
 37 **provide notice of any factfinding hearing to each foster parent or**
 38 **other caretaker with whom the child has been placed for**
 39 **temporary care. The court shall provide a person required to be**
 40 **notified under this subsection an opportunity to be heard at the**
 41 **factfinding hearing.**

42 SECTION 84. IC 31-37-18-1.3 IS ADDED TO THE INDIANA
 43 CODE AS A NEW SECTION TO READ AS FOLLOWS
 44 [EFFECTIVE JULY 1, 2007]: Sec. 1.3. (a) **The prosecuting attorney**
 45 **or probation department of the juvenile court shall provide notice**
 46 **of the date, time, place, and purpose of the dispositional hearing**
 47 **under this chapter to each:**

48 (1) party or person for whom a summons is required to be
 49 issued under IC 31-37-12-2; and

50 (2) foster parent or other caretaker with whom the child is
 51 placed for temporary care;

1 at the time the dispositional hearing is scheduled.

2 (b) The court shall:

3 (1) provide a person who is required to be notified under
4 subsection (a) an opportunity to be heard; and

5 (2) allow a person described in subdivision (1) to make
6 recommendations to the court;

7 at the dispositional hearing.

8 SECTION 85. IC 31-37-18-2 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Any
10 predispositional report may be admitted into evidence to the extent that
11 the report contains evidence of probative value even if the report would
12 otherwise be excluded.

13 (b) If a report contains information that should not be released to the
14 child or the child's parent, guardian, or custodian, a factual summary of
15 the report may be admitted.

16 (c) The following shall be given a fair opportunity to controvert
17 any part of the report admitted into evidence:

18 (1) The child.

19 (2) The child's parent, guardian, or custodian. and

20 (3) The person representing the interests of the state.

21 (4) A foster parent or other caretaker who is entitled to notice
22 of the dispositional hearing under section 1.3 of this chapter.
23 shall be given a fair opportunity to controvert any part of the report
24 admitted into evidence:

25 SECTION 86. IC 31-37-20-4.5 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) At least ten (10) days
28 before a hearing under section 2 or 3 of this chapter, the probation
29 department shall send notice of the hearing to each of the
30 following:

31 (1) The child's parent, guardian, or custodian.

32 (2) An attorney who has entered an appearance on behalf of
33 the child's parent, guardian, or custodian.

34 (3) The child or an attorney who has entered an appearance
35 on behalf of the child.

36 (4) A prospective adoptive parent named in a petition for
37 adoption of the child filed under IC 31-19-2 if:

38 (A) each consent to adoption of the child that is required
39 under IC 31-19-9-1 has been executed in the form and
40 manner required by IC 31-19-9 and filed with the county
41 office;

42 (B) the court having jurisdiction in the adoption case has
43 determined under any applicable provision of IC 31-19-9
44 that consent to adoption is not required from a parent,
45 guardian, or custodian; or

46 (C) a petition to terminate the parent-child relationship
47 between the child and any parent who has not executed a
48 written consent to adoption under IC 31-19-9-2 has been
49 filed under IC 31-35 and is pending.

50 (5) Any other person who:

51 (A) the probation department has knowledge is currently

1 providing care for the child; and

2 (B) is not required to be licensed under IC 12-17.2 or
3 IC 31-27 to provide care for the child.

4 (6) Any other suitable relative or person whom the probation
5 department knows has had a significant or caretaking
6 relationship to the child.

7 (b) The court shall provide to a person described in subsection
8 (a) an opportunity to be heard and to make any recommendations
9 to the court in a hearing under section 2 or 3 of this chapter. The
10 right to be heard and to make recommendations under this
11 subsection includes:

12 (1) the right of a person described in subsection (a) to submit
13 a written statement to the court that, if served upon all parties
14 to the delinquency proceeding and the persons described in
15 subsection (a), may be made a part of the court record; and
16 (2) the right to present oral testimony to the court and
17 cross-examine any of the witnesses at the hearing.

18 (c) This section does not exempt the probation department from
19 sending a notice of the review to each party to the delinquency
20 proceeding.

21 (d) The court shall continue the hearing if, at the time set for the
22 hearing, the probation department has not provided the court with
23 a signed verification that any person required to be notified under
24 this section has been notified in the manner stated in the
25 verification, unless the person appears for the hearing.

26 SECTION 87. IC 31-37-21-2, AS AMENDED BY P.L.146-2006,
27 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2007]: Sec. 2. (a) Except as provided by subsection (b), a
29 report prepared by the state:

30 (1) for the juvenile court's review of the court's dispositional
31 decree; or

32 (2) for use at a periodic case review or hearing under
33 IC 31-37-20-2 or IC 31-37-20-3;

34 shall be made available to the child, and the child's parent, foster
35 parent, guardian, guardian ad litem, custodian, ~~or~~ court appointed
36 special advocate, **or any other person who is entitled to receive**
37 **notice under IC 31-37-20-4.5** within a reasonable time after the
38 report's presentation to the court or before the hearing.

39 (b) If the court determines on the record that the report contains
40 information that should not be released to ~~the child or the child's~~
41 ~~parent, foster parent, guardian, or custodian;~~ **any person who is**
42 **entitled to receive a report under subsection (a),** the court is not
43 required to make the report available to the person as required under
44 subsection (a). However, the court shall provide a copy of the report to
45 the following:

46 (1) Each attorney or a guardian ad litem representing the child.

47 (2) Each attorney representing the child's parent, guardian, or
48 custodian.

49 (3) A court appointed special advocate.

50 (c) The court may also provide a factual summary of the report to
51 the child or the child's parent, foster parent, guardian, or custodian.

(d) In addition to the requirements of subsection (a), any report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.

SECTION 88. IC 31-37-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, **or any other person who is entitled to receive a report under section 2 of this chapter**, a factual summary of the report may be admitted.

(c) **The following shall be given a fair opportunity to controvert any part of the report admitted into evidence:**

(1) The child.

(2) The child's parent, guardian, or custodian. ~~and~~

(3) The person representing the interests of the state.

(4) Any other person who is entitled to receive a report under section 2 of this chapter;

~~shall be given a fair opportunity to controvert any part of the report admitted into evidence.~~

SECTION 89. IC 31-37-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. If a hearing is required, IC 31-37-17 governs the preparation and use of a modification report. The report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, or custodian is requesting the modification. **Notice of any hearing under this chapter shall be given in accordance with IC 31-37-18-1.3.**

SECTION 90. IC 31-37-24-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The team may adopt as its plan an existing plan for provision of family preservation services, as defined in ~~IC 12-7-2-82.3~~, **IC 31-9-2-44.8**, that:

(1) is in effect in the county;

(2) includes services for a child less than eighteen (18) years of age who reasonably may be expected to face out of home placement under IC 31-34 or IC 31-37 as a result of:

(A) dependency, abuse, or neglect;

(B) emotional disturbance; or

(C) delinquency adjudication; and

(3) addresses all of the objectives described in this section.

SECTION 91. IC 31-37-24-18, AS AMENDED BY P.L.234-2005, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The:

~~(1)~~ juvenile court, in implementing a program of informal adjustment for a child under IC 31-34-8, ~~and~~

(2) department of child services, in proposing a voluntary services referral agreement for the benefit of a child under IC 31-33-13; shall consider and use to the extent feasible any available services described in an early intervention plan approved under this chapter.

SECTION 92. IC 34-26-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The division of state court administration shall:

(1) develop and adopt:

(A) a petition for an order for protection;

(B) an order for protection, including:

(i) orders issued under this chapter;

(ii) ex parte orders;

(iii) no contact orders under IC 31 and IC 35; and

(iv) forms relating to workplace violence restraining orders under IC 34-26-6;

(C) a confidential form;

(D) a notice of modification or extension for an order for protection, a no contact order, or a workplace violence restraining order;

(E) a notice of termination for an order for protection, a no contact order, or a workplace violence restraining order; and

(F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

(1) either party; or

(2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, or a workplace violence restraining order:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

(A) THE RESPONDENT'S CURRENT OR FORMER

SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR

(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

(1) the forms adopted under subsection (a);

(2) all other forms required to petition for an order for protection, including forms:

(A) necessary for service; and

(B) required under **IC 31-21 (or IC 31-17-3 before its repeal)**; and

(3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

(1) verified or under oath under Trial Rule 11; and

(2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

SECTION 93. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 12-7-2-82.3; IC 31-9-2-23; IC 31-9-2-32; IC 31-9-2-33; IC 31-9-2-34; IC 31-9-2-35; IC 31-9-2-59; IC 31-9-2-81; IC 31-9-2-128; IC 31-17-3; IC 31-33-8-14; IC 31-33-12; IC 31-33-13; IC 31-33-17; IC 31-33-19; IC 31-33-20; IC 31-34-8-4.

SECTION 94. [EFFECTIVE JULY 1, 2007] **(a) Notwithstanding IC 31-33-26-13 and IC 31-33-26-16(c), both as added by this act, the department of child services is not required to adopt rules described under those statutes until July 1, 2011.**

(b) Notwithstanding IC 31-33-26-13, as added by this act, the department of child services shall adopt written policies governing administrative reviews and hearings relating to substantiated determinations of child abuse or neglect under IC 31-33-26-9, as added by this act, including the availability of judicial review of final decisions of the department of child services under IC 4-21.5-5. Rules adopted by the department under

1 **IC 31-33-26-13, as added by this act, supersede written policies**
2 **governing the same subject.**
3 **(c) Notwithstanding IC 31-33-26-16(c), as added by this act, the**
4 **department of child services shall adopt written policies governing**
5 **the disclosure of information under IC 31-33-26-16, as added by**
6 **this act. Rules adopted by the department of child services**
7 **governing the disclosure of information under IC 31-33-26-16, as**
8 **added by this act, supersede written policies governing the same**
9 **subject.**
10 **(d) This SECTION expires July 2, 2011.**
11 **SECTION 95. An emergency is declared for this act.**
 (Reference is to ESB 328 as reprinted April 10, 2007.)

Conference Committee Report
on
Engrossed Senate Bill 328

Signed by:

Senator Lawson C
Chairperson

Representative Welch

Senator Sipes

Representative Bell

Senate Conferees

House Conferees